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DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1990

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

ON

H.R. 2916

AN ACT MAKING APPROPRIATIONS FOR THE DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND FOR SUNDRY INDEPENDENT AGENCIES, BOARDS, COMMISSIONS, CORPORATIONS, AND OFFICES FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1990, AND FOR OTHER PURPOSES

PART 1 (Pages 1-704)

AMERICAN BATTLE MONUMENTS COMMISSION
ARMY CEMETERIAL EXPENSES
CONSUMER INFORMATION CENTER
CONSUMER PRODUCT SAFETY COMMISSION
COUNCIL ON ENVIRONMENTAL QUALITY
DEPARTMENT OF VETERANS AFFAIRS
ENVIRONMENTAL PROTECTION AGENCY
FEDERAL EMERGENCY MANAGEMENT AGENCY
NATIONAL CREDIT UNION ADMINISTRATION
NATIONAL INSTITUTE OF BUILDING SCIENCES
NEIGHBORHOOD REINVESTMENT CORPORATION
OFFICE OF CONSUMER AFFAIRS
SELECTIVE SERVICE SYSTEM
COUNCIL ON ENVIRONMENTAL QUALITY

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VA, HUD, AND INDEPENDENT AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1990

MONDAY, MARCH 6, 1989

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10:30 a.m. in room SD–116, Dirksen Senate Office Building, Hon. Barbara A. Mikulski (chairman) presiding.

Present: Senators Mikulski, Kerrey, and Grassley.

AMERICAN BATTLE MONUMENTS COMMISSION

STATEMENT OF MAJ. GEN. H.A. ADAMS, SECRETARY

ACCOMPANIED BY:

COLONEL MORAN, DIRECTOR OF PERSONNEL AND ADMINISTRATION
COLONEL RYAN, DIRECTOR OF OPERATIONS AND FINANCE
COLONEL BADGER, DIRECTOR OF ENGINEERING AND MAINTENANCE

OPENING REMARKS

Senator MIKULSKI. The subcommittee will come to order. Today the Subcommittee on VA, HUD, and Independent Agencies of the Senate Appropriations Committee begins its fiscal year 1990 budget hearings.

With the convening of the 101st Congress there are a number of changes which the subcommittee has experienced. First, I am the new subcommittee chair, and I am the first woman to chair a subcommittee in the 111-year history of the Senate Appropriations Committee.

General ADAMS. Congratulations.

Senator MIKULSKI. And you're the first guy I'm going to be talking to. [Laughter.]

Your first day, you never forget your partner. And in my new role, I intend to spend this first year learning as much as possible about the 21 departments and agencies in this bill, which comprise about 30 percent of the Federal domestic discretionary spending.

Second, one of the agencies in our bill, the Veterans' Administration, officially becomes a Cabinet Department next week, and with that elevation comes additional demands and responsibilities which the subcommittee will have to examine.

Third, we enter deliberations on the 1990 budget, facing an enormous amount of need in a time of fiscal austerity from veterans and housing to America's space and science programs. We face a

host of worthwhile projects and programs, all of which must be funded in the context of the President's proposed flexible freeze.

This morning we begin our hearings with three of the subcommittee's agencies—the American Battle Monuments Commission, Cemeterial Expenses for the Army, and the Selective Service Commission.

The Battle Monuments Commission and the Cemeteries are so important because they pay our respects where respects are due. We look forward to hearing your testimony, and later on this afternoon we will hear the Selective Service System.

Before we proceed to our first witness, we have received a statement from Senator D'Amato which, without objection, will be inserted in the hearing record at this point.

[The statement follows:]

STATEMENT OF SENATOR D'AMATO

Madame Chair, I am pleased to join my colleagues on this subcommittee today to review testimony on the FY90 budget requests for the American Battle Monuments Commission, the U.S. Army's Cemeterial Expenses, and the Selective Service System.

AMERICAN BATTLE MONUMENTS COMMISSION

I welcome to the subcommittee Major General A.J. Adams, USA, Secretary of the American Battle Monuments Commission. This Commission plays a vital role in helping us to recognize and remember the men and women who have so valiantly defended this country.

The Commission is specifically responsible for designing, constructing, and maintaining our Federal military cemeteries and memorials—both at home in America, and abroad where our battles were fought. The Commission also provides assistance to friends and relatives of the American war dead interred in or commemorated at its facilities.

I am pleased that the Commission now has the authorization under P.L. 100-687 to restore and operate the Pacific War Memorial in the Philippines. I hope that an agreement can soon be reached between the U.S. and the Philippines to allow this restoration to begin. I am also encouraged that progress continues on the planned Korean War Veterans Memorial to be erected on the Mall in Washington, D.C.

The Commission's budget request for fiscal year 1990 is $14,507,000, which is $578,000 less than its fiscal year 1989 request. I look forward to hearing Major General Adams' testimony regarding the needs and goals of the Commission in the upcoming year.

U.S. ARMY CEMETERIAL EXPENSES

I also look forward to hearing the testimony of John Doyle on the costs of operating Arlington National Cemetery and the Soldiers' and Airmens' Home National Cemeteries. The Army's fiscal year 1990 request for cemeterial expenses is $12,569,000. This is a necessary investment in the preservation of our national shrines. Not only do our distinguished servicemen deserve a special place for honorable burial, but living Americans should have a place to pay proper homage to these defenders of American freedom.

SELECTIVE SERVICE SYSTEM

I also welcome Samuel K. Lessey, Jr., Director of the Selective Service System. I want to commend Mr. Lessey for the fine job his agency has been doing. The Selective Service has continued to maintain a strong registration compliance rate in 1988. During that calendar year, 99.4 percent of the draft-eligible population has complied with the law and registered.

One of our Nation's most important deterrents to aggression is the ability to mobilize forces quickly. I hope the Selective Service System will continue its fine work to keep this readiness at a high level.

I look forward to the testimony of our distinguished witnesses this morning and hope that they will provide some guidance as to the direction that these agencies intend to follow in the coming year.

Thank you, Madame Chair.

INTRODUCTION OF WITNESS

Senator MIKULSKI. I am pleased to welcome our first witness, Maj. Gen. A.J. Adams, Secretary of the American Battle Monuments Commission.

General, we look forward to your testimony. If you could keep the oral part to about 10 minutes, a guideline which I hope to follow on the committee. This will leave us lots of time for questions. But I do welcome you and would ask you now to proceed.

SUMMARY OF STATEMENT

General ADAMS. Madam Chair, we thank you for the opportunity to testify today in support of the American Battle Monuments Commission's fiscal 1990 appropriations request.

CURRENCY EXCHANGE

Last year, the value of the dollar continued to fall on the foreign markets where our installations are located. Losses to the Commission as a result were $1,244,000. Fortunately, sufficient funds remained in the fiscal 1987 appropriation to offset such losses. Our current appropriation contains $829,000 specifically for this purpose. These funds have been transferred to the Treasury and placed in the foreign currency fluctuation account. During the first quarter of this year the dollar has remained fairly stable and close to our budget exchange rates. As a consequence, we have been able to transfer an appreciation of $15,321 into the account rather than withdraw from it to offset losses.

It is my understanding that the Government is continuing its efforts to reduce dollar exchange rates, and should these efforts be successful, we will need all the funds that we have in our foreign currency fluctuation account and possibly more.

CORREGIDOR

Section 1601 of Public Law 100-687 was enacted in October of last year authorizing us to restore, operate, and maintain the Pacific War Memorial and selected other historical and memorial sites on Corregidor in the Republic of the Philippines. Implementation is conditional on an agreement between the Republic of the Philippines and our Government. No action will be taken by us to perform any restoration until the agreement has been entered into and funds have been made available for that purpose.

GUADALCANAL

Work on the Guadalcanal Monument is progressing satisfactorily. As soon as the detailed drawings are completed, the stone will be ordered. The anticipated completion time for the monument is late this or early next year.

KOREAN WAR VETERANS MEMORIAL

Good progress is being made on the Korean War Veterans Memorial. To date, 33,000 donors have contributed $2.9 million. This is almost one-half of the overall design, maintenance, and construction costs. A superb site on the Mall in the Ash Woods area has been approved for the memorial. It is adjacent to the Lincoln Memorial and directly across the Reflecting Pool from the Vietnam Veterans Memorial. A design competition open to all Americans 18 years of age or older is underway. A total of 1,019 competitors or competitor teams are officially registered for the competition. According to our schedule, the winners of the competition will be announced June 1 of this year, at which time action will be taken for the necessary design approval. We hope to be able to award the construction contract by the middle of 1990. A building permit cannot be obtained until the entire cost of construction, $5 million plus $0.5 million for maintenance, is on deposit with the Treasury. The Commission, with the help of its Advisory Board, is working diligently to obtain the necessary contributions.

APPROPRIATION REQUEST

Our appropriation request for 1990 is $14,507,000, of which $14,007,000 is for salaries and expenses and $500,000 is for partial construction of the Korean War Memorial.

This concludes my statement, Madam Chair. We will be happy to answer your questions.

[The statement follows.]

STATEMENT OF MAJ. GEN. A.J. ADAMS

Mr. Chairman and Members of the Subcommittee:

We wish to thank you for the opportunity to testify today in support of the American Battle Monuments Commission's fiscal 1990 Appropriation Request.

Last year, the value of the dollar continued to fall on the foreign markets where our installations are located. Losses to the Commission as a result were $1,244,000. Fortunately sufficient funds remained in the fiscal 1987 appropriation which you helped us to obtain to offset such losses. Our current Appropriation contains $829,000 specifically for this purpose. These funds have been transferred to the U.S. Treasury and placed in the Foreign Currency Fluctuation Account, American Battle Monuments Commission established by Sec. 345 P.L. 100–322. During the first quarter of the current fiscal year, the dollar has remained fairly stable and close to our budgeted currency exchange rates. As a consequence, we have been able to transfer an appreciation of $15,321 into the account, rather than withdraw from it to offset losses. Current dollar exchange rates are still too high for U.S. goods and services to be fully competitive overseas thereby improving our balance of trade. It is my understanding that the U.S. government is continuing its efforts to reduce dollar exchange rates. Should these efforts be successful, we will need all the funds that we have in our Foreign Currency Fluctuation Account and possibly more.

Sec. 1601 of Public Law 100–687 was enacted in October of the past year authorizing ABMC to restore, operate and maintain the Pacific War Memorial and selected other historical and memorial sites on Corregidor in the Republic of the Philippines. Implementation is conditional upon an agreement being entered into between the Republic of the Philippines and the United States. It is our understanding that the two governments are generally in accord except for the length of time that the agreement will remain in effect. No action will be taken by ABMC to perform any restoration until the agreement has been entered into and funds have been made available for that purpose either through private contributions or an appropriation.

Work on the Guadalcanal Monument is progressing satisfactorily. As soon as the detailed drawings are completed, which will be soon, the stone will be ordered. Once the stone has been cut and crated, it will be shipped to Guadalcanal for erection. Anticipated completion time for the monument is late this year or early near year.

Excellent progress is being made on the Korean War Veterans Memorial. To date, 33,000 donors have contributed 2.9 million dollars. This is almost half of the overall design, maintenance and construction costs of 6 million dollars that is required. A superb site on the Mall, Ash Woods, has been approved for the memorial. It is adjacent to the Lincoln Memorial and directly across the Reflecting Pool from the Vietnam Veterans Memorial. A design competition open to all Americans 18 years of age or older is well underway. One thousand and nineteen competitors or competitor teams are officially registered for the competition. According to our schedule, the winners of the competition will be announced by June 1, 1989, at which time action to obtain the necessary design approvals will commence. We hope to be able to award the construction contract by the middle of 1990. Unfortunately, a building permit cannot be obtained until the entire cost of construction of 5 million dollars plus 1/2 million dollars required by law for maintenance is on deposit in the U.S. Treasury for those purposes. The Commission, with the help of its Advisory Board, is working diligently to obtain the necessary contributions.

The Commission's Appropriation Request for 1990 is $14,507,000, of which $14,007,000 is for salaries and expenses and $500,000 is for partial construction of the Korean War Veterans Memorial. The request is $578,000 less than the fiscal 1989 Appropriation request. Anticipated obligations are $101,000 more than those anticipated for the current year.

This concludes my prepared statement. We will be pleased to respond to your questions.

GENERAL QUESTIONING

Senator MIKULSKI. Thank you very much, General. Before I go to questions, I would like the record to show that we have been joined by Senator Bob Kerrey of Nebraska, a most welcomed new addition to the subcommittee, and himself a Congressional Medal of Honor winner.

As we move on—we are going to follow the rule of 10-minute questionings, but let me move on with some questions I have.

First, let me congratulate you on the job you are doing. I am sure every time that dollar fell, it gave you a source of a great deal of consternation. It is a fairly nerve-wracking experience, because you have international responsibilities, international expenditures, and absolutely no control over the dollar. So we want to do all we can to recognize this unique situation that you have.

FUNDING FOR THE KOREAN WAR VETERANS MEMORIAL

Coming back now to the Korean War Veterans Memorial. You are requesting $500,000 for the construction of this, and you testified that you hope to raise about $5 million.

Do you feel that you are right on target, in terms of your fund raising?

General ADAMS. I wouldn't say we're on target, because we would like to have it all now, but as we indicated in the testimony, we are about halfway there, and we feel optimistic about obtaining the balance, which is $3 million.

Senator MIKULSKI. I see. Now also, the building permits. From what we understand, you can't obtain a building permit until the entire cost of construction, plus $500,000 for maintenance, is deposited in the Treasury. Is it realistic that you will have received the balance by mid-1990?

General ADAMS. We believe so.

Senator MIKULSKI. Who is contributing? Is it a lot of little donors?

General ADAMS. Yes. Maybe you have heard about it, maybe you haven't, but someone wrote "Dear Abby" a note and told her that this is a good project and, please, everybody put a dollar in an envelope and mail it to us, which many of them did. We have over 34,000 donors but not enough money.

Senator MIKULSKI. What a great story.

General ADAMS. In addition to that, the larger donors have been the veterans organizations except for Hyundai Motor America of Korea, which donated $1 million.

Senator MIKULSKI. So you've got everybody from the veteran himself or a family member who sent the dollar. Those of us who remember the Korean war, as well as major corporations.

General ADAMS. Yes, ma'am.

Senator MIKULSKI. Well, we would like to be kept posted of your progress, because I think it is important we try to meet that deadline.

CURRENCY EXCHANGE RATES

I would now like to ask, if I could, about the currency fluctuation. This is a major issue. According to that, you have lost about $1.2 million.

The fiscal year 1989 appropriation included $829,000 in a separate account to offset currency fluctuations. Your justifications states that the account presently has sufficient funds in it to offset anticipated losses. How much is currently in that currency fluctuation account?

General ADAMS. $950,000, within a few dollars.

Senator MIKULSKI. Do you anticipate losses in 1990?

General ADAMS. Well, that's a good question, Madam, but if you notice in my testimony, the first quarter of this year, we actually made $15,000. By "make," I mean the rate of exchange was higher than the budgeted rate so we were able to deposit that much in the Treasury due to the higher exchange rates. If the rate of exchange continues at its present level, we should come out about even.

Senator MIKULSKI. What do you do in making your assumptions? Do you use the French franc or the English pound?

General ADAMS. We use all that have changed significantly over the past 2 years.

Senator MIKULSKI. You use them all?

General ADAMS. The French franc, the English pound, the Italian lira, the Belgium and Luxembourg franc and the Netherlands guilder.

Senator MIKULSKI. How far would the dollar have to drop to evaporate those resources?

Colonel RYAN. Right now it's around 6.2. francs to the dollar, for example. If it dropped down below 5.8 early in the year, it would do much to exhaust our resources. Yes; that would just about do it.

Senator MIKULSKI. Let's hope it doesn't, for all kinds of reasons.

MANILA AMERICAN CEMETERY

My last question for this round, before I turn to Senator Kerrey:

General, on page 8 of your justification, I note that you are requesting $631,000 for the Manila American Cemetery, which is

below fiscal year 1989. This is so unusual, where there has been actually a decrease in request.

Senator MIKULSKI. Is that accurate?

Colonel BADGER. Yes; it is, Madam Chair.

Senator MIKULSKI. Then could you tell us why? Only because we are concerned with the escalating costs, these Asian fluctuation rates.

Colonel BADGER. Actually, there are three areas that we reduced our planned expenditures in 1990. The first is in repair work. We have cut the estimated cost of repair from $74,000 to $45,000, and then in capital improvements, we also reduced the planned capital improvements for the cemetery from $94,000 to $59,000. Then there was a reduction, a small reduction in supplies that made the difference.

Senator MIKULSKI. Good for you; that's excellent.

I have other questions, but Senator Kerrey, do you have questions you would like to ask?

Senator KERREY. I do, Madam Chair. I've got a few that I would like to provide to you for the record that you can answer later.

FOREIGN NATIONAL PAY SCALES

I just was curious as to how you, for the 330 or so foreign nationals that work for you, what sort of thinking do you do to determine what sort of wage scale that you are going to be paying these people.

General ADAMS. We do not have to think, Senator. We are told what to do by the foreign government in every case and the Embassy, of course.

Senator KERREY. They order or determine the wage scale?

General ADAMS. Yes.

Senator KERREY. And what sort of logic do they use, and I hesitate to use that——

General ADAMS. I assume they do as we do. They make our foreign nationals' wages and salaries according to their own wages and salaries for like work.

Senator KERREY. That is the only question I have. The others can be submitted for the record.

ABSORPTION OF MANDATED PAY INCREASES

Senator MIKULSKI. My last question will go to the effect of the mandated pay increase. On page 9, again, of the justification, you state because of the mandated pay increases for the military, general schedule and foreign national employees, it was necessary to eliminate most casual labor usage during the fiscal year.

How has that affected the maintenance of the installations, which we know are so critical, and did that have any impact upon really being able to take proper care of the appearance and specialness of the memorials?

General ADAMS. Yes, it does, Madam Chair. When this happens, we have to absorb pay increases, then we must defer certain projects that should be done, and we have a list of about $3.5 million worth of deferred projects which we would like to do but don't have the funds to do.

Senator MIKULSKI. Could you give me three examples of that, a few examples?

Colonel BADGER. Just to take a cemetery at random, at Ardennes Cemetery, we would like to replace the potable water lines. We presently are pumping from a well. We would like to tie into the city. We are deferring that.

Senator MIKULSKI. Where is this?

Colonel BADGER. At Ardennes.

General ADAMS. Which is south of Liege.

Colonel BADGER. We would like to extend the parking area there, to improve the parking. We have deferred that. We felt that that was not as critical an item as others. Then we are improving the sprinkler system there. We presently have portable sprinklers, but we would like to sprinkle the entire lawn at once, because we find it very labor-consuming to sprinkler manually. Those are three examples at one of our cemeteries.

Senator MIKULSKI. I would like, if I could, a list of those deferred projects for the record, just so that we are clear on the impact of our decisionmaking.

[The information follows:]

Deferred maintenance projects

Aisne-Marne American Cemetery:	
Resurface access paths	$17,000
Replace Chauteau-Thierry window grills	3,000
Total: Aisne-Marne American Cemetery	20,000
Ardennes American Cemetery:	
Replace astro turf at memorial	10,000
Replace cracked memorial window	6,000
Replace potable water lines	12,000
Repolish memorial maps	8,000
Repair memorial stainless steel door	7,000
Regild altar cross	4,000
Resurface service roads	20,000
Replace five service building doors	4,500
Replace furnaces, both quarters	5,000
Total: Ardennes American Cemetery	76,500
Brookwood American Cemetery:	
Rebuild stone base of flagpole	4,000
Raise path curbstones	20,000
Paint water tower	4,000
Clean & treat exterior visitors' building	20,000
Total: Brookwood American Cemetery	48,000
Brittany American Cemetery:	
Restore terrace, Brest Memorial	50,000
Renovate insulation, visitors' building	3,000
Repoint lower chapel joints	28,000
Rewire chapel & pumping station	14,000
Resurface service roads	15,000
Repair & reseal terrace	7,000
Total: Brittany American Cemetery	117,000
Cambridge American Cemetery:	
Relevel wall of missing sidewalks	40,000
Repair north entrance stonework	20,000

Deferred maintenance projects—Continued

Clean & treat memorial	65,000
Reconstruct pavement of long stairs	12,000
Refurbish visitors' building	3,000
Replace floor tiles, both quarters	11,000
Total: Cambridge American Cemetery	151,000
Epinal American Cemetery:	
Regild features	3,000
Reset flagpole stone base	18,000
Repair memorial roof and gutters	9,000
Replace potable water line	20,000
Replace perimeter wall coping	33,000
Repair cemetery pools	5,000
Replace roof tile & flashing, both quarters	20,000
Rewire both quarters	19,000
Regravel cemetery paths	8,000
Total: Epinal American Cemetery	135,000
Flanders Field American Cemetery:	
Renovate flagpole brick terrace	9,000
Replace shutters, reception building	8,000
Replace quarters furnace	4,000
Rewire quarters	5,000
Total: Flanders Field American Cemetery	26,000
Henri-Chapelle American Cemetery:	
Repolish marble, chapel & museum	4,000
Replace furnaces, both quarters	10,000
Resurface roads & paths	60,000
Rebuild entrance stone walls	15,000
Rebuild memorial terrace	240,000
Rebuild main storage building roof	60,000
Repair ceiling over memorial colonnades	9,000
Regild eagles on pylons	12,000
Total: Henri-Chapelle American Cemetery	410,000
Lorraine American Cemetery:	
Resurface paths, memorial area	55,000
Refurbish memorial bronze window frame	18,000
Repaint metal storage building	12,000
Repoint memorial steps	18,000
Replace garage doors	5,000
Replace shutters both quarters	17,000
Total: Lorraine American Cemetery	125,000
Luxembourg American Cemetery:	
Regild cross and candelabras	5,000
Re-enamel arrows on battle maps	15,000
Replace telephone-intercom system	4,000
Resurface service roads	45,000
Rewire chapel	3,000
Replace garage doors	3,000
Rewire both quarters	8,000
Repair memorial terrace	80,000
Replace furnace, Asst Supt's quarters	4,000
Replace perimeter fence	30,000
Resurface footpaths	80,000
Conduct topographic survey	8,000
Replace window frames at chapel	15,000
Regild main gate	12,000

Deferred maintenance projects—Continued

Rewire both quarters	8,000
Total Luxembourg American Cemetery	320,000
Meuse-Argonne American Cemetery:	
Repair access road to Montfaucon	10,000
Replace roof tiles, visitors' building	20,000
Replace furnace, garage	5,000
Reinforce church arches, Montfaucon	10,000
Replace intercom system	4,000
Clean & treat memorial	35,000
Clean & treat monument, Sommepy	20,000
Total Meuse-Argonne American Cemetery	104,000
Netherlands American Cemetery:	
Replace furnace, Supt's quarters	3,000
Repair memorial flagpole steps	12,000
Resurface court of honor	55,000
Clean & repoint memorial	99,000
Repair roof, both quarters	30,000
Reconstruct stone base of bronze statue	8,000
Total Netherlands American Cemetery	207,000
Normandy American Cemetery:	
Repair cemetery paths	65,000
Replace floor tiles, visitors' building	7,000
Repair paths to ocean	18,000
Replace roof gutters, both quarters	7,000
Restore electric power to chapel	12,000
Resurface road to old compost building	8,000
Replace gutters, service area	6,000
Clean & treat chapel	12,000
Rewire service building	6,000
Repair service area parking lot	5,000
Repair memorial maps	7,000
Resurface esplanade, Utah Beach Monument	4,000
Reconstruct parking lot, Pointe du Hoc	40,000
Total Normandy American Cemetery	197,000
Oise-Aisne American Cemetery:	
Replace boundary fence	50,000
Replace stained memorial stones	6,000
Repair prefab metal building	50,000
Repair compost building roof	5,000
Repoint joints at rear of memorial	33,000
Restore river pump station	8,000
Repair floor tile service building	9,000
Total Oise-Aisne American Cemetery	161,000
Rhone American Cemetery:	
Repoint wall of missing	20,000
Reconstruct chapel terrace	30,000
Resurface roads & paths	20,000
Resurface parking area	16,000
Repair east wall & fence	20,000
Retile quarters & service bldg roofs	12,000
Total Rhone American Cemetery	118,000
St. Mihiel American Cemetery:	
Rehabilitate battle map, Montsec	15,000
Resurface paths, Montsec Monument	15,000
Conduct topographic survey	6,000

Deferred maintenance projects—Continued

Replace Supt's furnace	4,000
Repair roof & enclose compost shed	15,000
Total St. Mihiel American Cemetery	55,000
Somme American Cemetery:	
Ventilate memorial	9,000
Rebronze antique green features	5,000
Replace furnace visitors' building	5,000
Replace windows, Supt's quarters	12,000
Relevel headstone beams	30,000
Paint fence	90,000
Replace sprinkler system	40,000
Replace gutters & roof tile, Supt's quarters	20,000
Rework service area runoff	6,000
Replace perimeter fence at Cantigny	5,000
Replace slate hooks on Supt's roof	6,000
Repoint Beilicourt monument	4,000
Total Somme American Cemetery	232,000
Suresnes American Cemetery:	
Regild main gate	12,000
Repair quarters driveway	25,000
Repair exterior wall, visitors' building	10,000
Relocate gasoline pump	15,000
Resurface paths	40,000
Repolish interior marble memorial walls	10,000
Paint perimeter fence	60,000
Relevel headstone beams	30,000
Rewire chapel & memorial	10,000
Ventilate memorial	9,000
Widen northern paths	16,000
Total Suresnes American Cemetery	237,000
Washington Office:	
Support floor slabs, Honolulu Memorial	28,000
Total: Washington Office	28,000
Grand total	2,767,5000

Deferred capital improvement projects

Paris Office:	
Extend parking	$10,000
Aisne-Marne American Cemetery:	
Install electric power Chateau-Thierry	8,000
Construct water treatment plant	25,000
Install stairs to basement	8,000
Renovate Chauteau-Thierry basement rooms	14,000
Install automatic sprinkler system	93,000
Install curbstones entrance gate	6,000
Total: Aisne-Marne American Cemetery	154,000
Ardennes American Cemetery:	
Enclose rear porch Asst Supt's quarters	3,000
Renovate Asst Supt's attic	5,000
Relevel lawn & install drainage	18,000
Drill new deep well	200,000
Replace Memorial furnace	9,000
Extend parking area	40,000
Ventilate pump room	7,000
Install sprinklers at entrance lawn	5,000
Install storm windows, Supt quarters	6,000

Deferred capital improvement projects—Continued

Renovate baths both quarters	14,000
Rehabilitate both attics	8,000
Install automatic sprinkler system	180,000
Total: Ardennes American Cemetery	495,000
Brookwood American Cemetery:	
Renovate quarters attic	10,000
Construct parking lot	15,000
Enclose compost shed	5,000
Total: Brookwood American Cemetery	30,000
Brittany American Cemetery:	
Construct workshop in garage	12,000
Rehabilitate attics both quarters	9,000
Install storm windows both quarters	9,000
Construct dormers both quarters	18,000
Construct ceiling over garage	7,000
Renovate water supply system	20,000
Install automatic sprinkler system, Tours	5,000
Total: Brittany American Cemetery	80,000
Cambridge American Cemetery:	
Install ventilation in pump room	3,000
Enclose compost shed	9,000
Heat & insulate visitors toilet	12,000
Rehabilitate Supt's attic	10,000
Insulate both quarters	9,000
Insulate attics both quarters	9,000
Install storm windows Asst Supt's quarters	9,000
Total: Cambridge American Cemetery	61,000
Epinal American Cemetery:	
Improve employees lunch room	3,000
Renovate baths, both quarters	7,000
Total: Epinal American Cemetery	10,000
Flanders Field American Cemetery:	
Install automatic sprinkler system	35,000
Henri-Chapelle American Cemetery:	
Install city water	6,000
Install automatic sprinkler system	200,000
Renovate kitchens both quarters	8,000
Construct reception building	140,000
Construct verandas both quarters	12,000
Renovate public toilets	18,000
Construct office & visitors room	21,000
Extend refractory	12,000
Construct new visitors toilets	85,000
Install baths in attics of both quarters	4,000
Insulate Asst Supt attic	4,000
Total: Henri-Chapelle American Cemetery	510,000
Lorraine American Cemetery:	
Replace kitchen cabinets both quarters	15,000
Install alarm visitors building & quarters	10,000
Connect sewage to city system	8,000
Enlarge office	55,000
Insulate toilet building	6,000
Construct additional parking	32,000
Enclose compost shed	6,000

Deferred capital improvement projects—Continued

Construct ceiling in garage	7,000
Construct dormers, both quarters	20,000
Install storm windows both quarters	17,000
Install floor tile, workshop	4,000
Total: Lorraine American Cemetery	180,000
Luxembourg American Cemetery:	
Enclose compost shed	5,000
Install security alarm system	5,000
Protect battle maps	15,000
Insulate interior, both quarters	7,000
Renovate Asst Supt's bathroom	4,000
Renovate Asst Supt's wooden porch	2,000
Renovate Asst Supt's attic	4,000
Install metal grills, entrance gate	4,000
Protect gilded, memorial door panels	9,000
Install carpeting, both quarters	5,000
Install automatic sprinkler system	70,000
Total: Luxembourg American Cemetery	130,000
Meuse-Argonne American Cemetery:	
Build oil separator at area "S"	8,000
Extend sprinkler system	180,000
Improve access road to Sommepy	9,000
Improve quarters No. 3	30,000
Add additional bedroom, Supt's quarters	9,000
Install pool treatment system	28,000
Extend curb, nursery	4,000
Install visitors building sewer system	15,000
Total: Meuse-Argonne American Cemetery	283,000
Netherlands American Cemetery:	
Construct new parking	85,000
Enlarge visitors toilets	30,000
Repair perimeter road	15,000
Construct bathroom, Supt quarters	3,000
Construct new visitors toilets	135,000
Renovate attic, Supt's quarters	5,000
Install automatic sprinkler system	200,000
Total: Netherlands American Cemetery	473,000
Normandy American Cemetery:	
Weatherproof windows both quarters	8,000
Rehabilitate Supt's attic	5,000
Construct garage, both quarters	18,000
Landscape Pointe du Hoc battle site	100,000
Install baths in attics, both quarters	10,000
Construct support buildings, Pointe du Hoc	190,000
Widen cemetery path to east gate	9,000
Enlarge office phase II of II	24,000
Pave footpaths, Pointe du Hoc	12,000
Install perimeter fence, Pointe du Hoc	9,000
Install exterior lights, Pointe du Hoc	7,000
Construct sewage system, Pointe du Hoc	35,000
Renovate kitchen & bath, Asst Supt's quarters	10,000
Install video surveillance, parking lot	50,000
Construct dormers, Asst Supt's quarters	9,000
Install six granite benches, cemetery	4,000
Construct access road curbing	35,000
Construct greenhouse complex	8,000
Install six benches, Utah Beach	4,000
Install sprinkler system, Utah Beach	10,000

Deferred capital improvement projects—Continued

Construct visitors toilet, Pointe du Hoc	50,000
Install wire fences, both quarters	5,000
Total: Normandy American Cemetery	612,000
Oise-Aisne American Cemetery:	
Construct compost platform	35,000
Rhone American Cemetery:	
Ventilate wall of missing	6,000
Raise north end of battle map	15,000
Construct front wall	60,000
Total: Rhone American Cemetery	81,000
St. Mihiel American Cemetery:	
Rebuild service area	90,000
Install storm windows, office & visitors bldg.	8,000
Install automatic sprinkler system	70,000
Total: St. Mihiel American Cemetery	168,000
Somme American Cemetery:	
Insulate Supt's attic	2,000
Install septic tank system	6,000
Construct path retaining wall, Bellicourt	5,000
Total: Somme American Cemetery	13,000
Suresnes American Cemetery:	
Install spotlights, chapel & gate	3,000
Construct service building, phase I of II	145,000
Enlarge office, visitors building	55,000
Reconstruct memorial terrace	80,000
Improve heat in workshop	3,000
Extend compost platform	6,000
Replace carpeting, Supt's quarters	2,000
Total: Suresnes American Cemetery	294,000
Corozal American Cemetery:	
Rehabilitate chapel interior	34,700
Grand total	$3,688,700

MEMORIALS SACRED

Senator MIKULSKI. The reason I ask those questions is I happen to believe that our memorials are sacred. They are either actual cemeteries or they are memorials that connote a very special and historic event. Otherwise, we wouldn't have a memorial, whether it is Guadalcanal or Corregidor. If you are going to take care of them—I mean, we want them to acknowledge—as I say, I will use the term sacred. I think one knows what I mean by that, in a way, and we are interested in the impact.

General ADAMS. We would like very much for you to take the opportunity sometime to visit one, some or all of them.

Senator MIKULSKI. Well, we hope to. What I would like to do is to be able to integrate that on a trip that I am either taking to the Pacific or a trip to Western Europe, where we could incorporate some of those as part of our overall trip. As one of our functions is, of course, the national space agency, and the key Western Europe

action is in France. So we hope to be able to get over there, and I know my counterpart, Congressman Traxler, does.

General, thank you for the job you're doing. Now I know you're from the Corps of Engineers.

Colonel BADGER. Yes, ma'am.

Senator MIKULSKI. I can see that on your insignia.

Colonel BADGER. Yes.

Senator MIKULSKI. What's that?

Colonel RYAN. Air Defense.

Senator MIKULSKI. Air Defense?

Colonel RYAN. Yes; that's my basic branch.

Senator MIKULSKI. That's a missile you have there, isn't it?

Well, thank you very much.

General ADAMS. Thank you, Madam.

Senator MIKULSKI. Oh, wait just a minute.

Senator Grassley, we are just finishing the Battle Monument portion. Do you have any questions?

Senator GRASSLEY. Sorry; I don't have anything to ask you.

Senator MIKULSKI. OK. Thank you, gentlemen.

SUBMITTED QUESTIONS

[The following questions were not asked at the hearing but were submitted to the Commission for response for the record:]

QUESTIONS SUBMITTED BY SENATOR MIKULSKI

AVERAGE SALARY OF UNGRADED POSITIONS

Question. Between 1988 and 1989 your average salary of ungraded positions went from $15,988 to $17,608, a 10% increase. You are estimating that the average salary of ungraded positions will increase only 4% between 1989 and 1990. Can you explain why you expect such a sharp drop in the rate of increase? Is this because of the stabilization of the exchange rates?

Answer. Yes. In preparing the Appropriation Request, it was anticipated that during 1989 and 1990, the exchange rates in the countries where our installations are located will remain more or less stable. The 10% increase in fiscal 1988 was due to a combination of falling dollar exchange rates and cost of living pay increases awarded by the governments where our installations are located.

Question. In a number of locations, your actual budget and your requested budget for fiscal year 1988 changed substantially. In looking at your fiscal year 1988 justifications, in the Paris Office, you had planned to spend $1,999,024 but you actually spent $2,281,412—an increase of over $280,000 or 14%. In the Aisne-Marne Office you planned to spend $454,479. Now I see you spent $400,173—an 11.9% decrease. In Epinal you had budgeted $358,380 but spent $415,102—a difference of 16%. In the Sicily-Rome Office you had budgeted $622,832 but spent $670,142—7.5% more than planned. There are other instances, but I think you get my point. Why were estimates so wide of the mark; is it due to currency fluctuations?

Answer. The budgets for our installations are prepared 16 to 18 months prior to the year in which the funds will be expended. Each is based upon our best estimate of the requirements which can be satisfied within the overall funding ceiling. Our World War I installations are approximately 60 years old; our World War II installations are approximately 35 years old. Due to age; climatic conditions such as storms, freezes, and droughts; unforeseen accidents and incidents; and the changes in the price of materials, supplies, and equipment, the maintenance requirements for one or more installations very often become more urgent than those of some of the others. When this occurs, we defer the work at one or more installations and apply the funds against those with the more urgent needs. Because of currency fluctuations alone, there should have been an average change of 10% from the initial budget estimates. But there also were several other factors that necessitated significant changes such as the Gramm, Hollings, Rudman sequester of 4% or $517,000; the lack of a pay supplemental appropriation which required a 3% or $400,000 ab-

sorption and the fact that there was a 4% inflation rate rather than the 2.5% forecast forcing the absorption of an additional 1.5% or $200,000. From past experience, we have learned that it is seldom possible to plan the individual cemetery budgets so far in advance with precision because of factors unknown at the time and beyond our control, although we certainly do try to do so. These estimates also must be changed as mentioned to provide for new requirements of an emergency nature such as replacement by the European Office of $136,000 in equipment that was lost in a fire at the Normandy Cemetery and the replacement at the Normandy Cemetery of the equipment storage building that burned at a cost of $200,000.

Question. In the offices where you spent less than anticipated, what activities, if any, were shortchanged?

Answer. It was necessary to curtail most casual labor and defer or reduce in scope some maintenance and repair projects and equipment replacement. The casual laborers during the peak growing season help keep up with grass cutting; watering; weeding; general police of the cemetery; cleaning of waterways and ditches; trimming around each headstone and the borders of fine lawns; and high pressure water cleaning, pumicing and siliconing of headstones on a quarterly or semi-annual basis; releveling of graves areas; and other projects requiring unskilled labor. The permanent staffs are not large enough to keep up with these activities on a year around basis and their other duties as well.

Questions Submitted by Senator Kerrey

FOREIGN CURRENCY FLUCTUATION

Question. With respect to your use of foreign currency, what assumptions have you made about dollar fluctuations in fiscal year 1990?

Answer. The assumption has been made that the French Franc will stabilize at about 6.01 per dollar, the Belgian and Luxembourg Francs at about 38.44, the Netherlands Guilder at about 1.99, the Italian Lira at about 1258 and the British Pound at about 0.624.

Question. Are your assumptions based on your experience and/or projections or on OMB guidance?

Answer. They are our best estimates based upon past experience. Unfortunately, we have found that dollar exchange rates generally are unpredictable.

FOREIGN NATIONAL PAY INCREASES

Question. How do you determine what the pay increases should be for the 330 plus foreign nationals who work for you?

Answer. Cost of living pay increases for our foreign national employees are determined and decreed by the foreign country concerned. General wage scales for particular jobs are determined by the Embassy concerned based upon surveys of local job equivalents. Anticipated pay increases are estimates by the Commission based upon discussions with the Embassies and foreign governments concerned.

STATE DEPARTMENT ADMINISTRATIVE SUPPORT

Question. What is your total request for State Department administrative support?

Answer. Our total request is for $105,000.

Question. Does that include a $32,000 increase?

Answer. Yes, it does.

Question. What is responsible for that increase?

Answer. The Department of State has informed the Office of Management and Budget that it was subsidizing support for the Commission in the amount of $32,000 and that in the future it would bill the Commission as well as other agencies for all costs of their support.

KOREAN WAR VETERANS MEMORIAL

Question. What is your current spending profile for the Korean War Veterans Memorial, i.e. what have you spent in each of the past several years and what do you anticipate requesting in each of the next several fiscal years as the project moves through construction?

Answer. Public Law 99-57? requires that the memorial be erected with funds obtained through private contributions, except for $1,000,000 which it authorizes to be appropriated. In fiscal 1989, $500,000 was appropriated for design, site preparation

and associated administrative costs. We anticipate obligating those funds in fiscal 1989. The Commission's fiscal 1990 Appropriation Request contains the second $500,000 which will be used as part of the $5,000,000 required to construct the memorial. If we can raise the remainder of the funds by fiscal 1990, we hope to award a construction contract by the end of that year. Not being professional fund raisers, the Commission and its Advisory Board are breaking new ground in their efforts to raise the $6,000,000 required to erect the memorial and subsequently reimburse the Federal Government for its appropriation. To date, approximately $3,000,000 have been raised in private contributions. There are no plans at this time to request an appropriation of additional construction funds.

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

ARMY CEMETERIAL EXPENSES

STATEMENT OF JOHN S. DOYLE, JR., PRINCIPAL DEPUTY ASSISTANT SECRETARY OF THE ARMY FOR CIVIL WORKS

ACCOMPANIED BY:

RAYMOND J. COSTANZO, SUPERINTENDENT, ARLINGTON NATIONAL CEMETERY

RORY SMITH, BUDGET OFFICER, ARLINGTON NATIONAL CEMETERY

Senator MIKULSKI. Let's move on now to the Cemeterial Expenses.

I would like to note the presence of Senator Grassley of Iowa.

Senator, we have already started on the Battle Monuments. We are now going to go to the Cemeterial Expenses panel.

Senator GRASSLEY. I have no opening statement I want to give.

Senator MIKULSKI. Senator Kerrey, did you have an opening statement?

Senator KERREY. I do not.

Senator MIKULSKI. This subcommittee is pleased to welcome our next witness, Mr. John Doyle. He is the Principal Deputy Assistant Secretary of the Army for Civil Works.

Mr. Doyle, we knew each other when I was a Congresswoman from the Third District and you were my minority counsel over there in the House Public Works, when I was trying to get the Baltimore Channel dredged, and we worked well together, and I know that between Mrs. Bentley and me and you, we got that job done. So we look forward to working with you on this. We thank you for all the courtesies you extended during that time.

We thank you for appearing before this subcommittee and ask you to proceed with your remarks.

OPENING STATEMENT

Mr. DOYLE. Thank you, Madam Chairman. It is truly a pleasure to be here today before yourself, Senator Kerrey, and Senator Grassley, to testify on behalf of the Secretary of the Army and in support of the fiscal year 1990 appropriation request for Cemeterial Expenses, Department of the Army.

INTRODUCTION OF ASSOCIATES

With me today on my right, your left, are Mr. Raymond J. Costanzo, who is the Superintendent of Arlington National Cemetery, and on my left, your right, Mr. Rory Smith, who is the Budget Officer of Arlington National Cemetery.

Madam Chair, I was heartened to hear you describe to the previous panel your views of our Nation's cemeteries in terms of memorials being sacred, because that clearly is the view that we take, and we believe all Americans should take with respect to these most important memorials.

Arlington National Cemetery is this Nation's principal shrine to the men and women who have served in our Armed Forces. It is a visible reflection of America's appreciation for those who made the ultimate sacrifice to maintain our freedom. In addition to the thousands of funerals held there each year, hundreds of nonfuneral ceremonies are conducted to honor those whose remains are interred or inurned within the cemetery. Thousands of visitors participate in these solemn events.

Madam Chair, I will summarize my written statement. With your indulgence, perhaps the rest of the statement could be included in the record.

Senator MIKULSKI. Without objection.

STATEMENT SUMMARIZED

Mr. DOYLE. Thank you. The new visitors center and parking facility which we have been working on for a number of years was opened to the public on January 16 of this year. Paid parking was initiated under the lease plan that we negotiated. We anticipate about $700,000 per year will be returned to the U.S. Treasury from this lease.

Our inurnments in the Columbarium at Arlington National Cemetery continue to increase. We are currently averaging about 1,200 inurnments per year. All available space in the existing Columbarium, on the basis of current projections, will be exhausted in about a year and a half, by May of next year.

Therefore, fiscal year 1989 funds in the amount of $5,764,000 have been appropriated to construct a new 10,000-niche Columbarium addition.

For fiscal year 1990, we are requesting $12,569,000. Approval of that request, we believe, will permit us to continue the high standards of maintenance expected at these cemeteries.

We look forward to your participation in the dedication of the next increment of the Columbarium when it is completed next year.

Madam Chairman, that concludes my oral summary. I will be happy to respond to any questions that you might have.

[The statement follows:]

STATEMENT OF JOHN S. DOYLE, JR.

Dear Madam Chair and Members of the Subcommittee

I appreciate the opportunity to appear before the subcommittee in support of the fiscal year 1990 appropriation request for Cemeterial Expenses, Department of the Army. With me today are Mr. Raymond J. Costanzo, Superintendent, and Mr. Rory Smith, Budget Officer, of the Arlington National Cemetery. We are appearing on behalf of the Secretary of the Army, who is responsible for operating and maintaining Arlington and Soldiers' and Airmen's Home National Cemeteries. The funds requested will finance operations at both cemeteries.

For fiscal year 1990, we are requesting $12,569,000.

The increase of $599,000 in operation and maintenance is primarily due to an estimated increase in the cost for the security contract, improvement of lawn irrigation

capabilities, increased cost for Employee's Compensation, repair of the Roosevelt fountain and installation of a handicap lift in the Memorial Amphitheater. Funding increases have been kept to a minimum and will provide adequate maintenance standards expected at this national shrine. These funds will provide for the full employment of 142 work years of effort, maintenance of the buildings and provide the necessary supplies and equipment.

In fiscal year 1988 there were 3,121 interments and 1,223 inurnments; 3,250 interments and 1,300 inurnments are estimated for fiscal year 1989; and 3,400 interments and 1,350 inurnments are estimated for fiscal year 1990.

CEREMONIES

Arlington National Cemetery is this Nation's principal shrine to the men and women who served in the Armed Forces. It is a visible reflection of America's appreciation for those who have made the ultimate sacrifice to maintain our freedom. In addition to the thousands of funerals held there each year, hundreds of non-funeral ceremonies are conducted to honor those who are interred or inurned within the confines of this cemetery. Millions of visitors observe or visit Arlington to participate in these solemn events. During fiscal year 1988, approximately 1,900 ceremonies were conducted, included in this number were events in which 13 foreign heads of state or government participated, including Prime Minister Goria of Italy, Crown Prince Akihito of Japan, President Kaunda, of Zambia, President Duarte of El Salvador, President Herzog of Israel, Prime Minister DeMita of Italy, Prime Minister Takeshita of Japan, Prime Minister Silva of Portugal, President Evern of Turkey, Prime Minister Adami of Mali, Crown Prince Al-Sabah of Kuwait, Prime Minister Groze of Hungary, Prime Minister Palsson of Iceland, and Prime Minister Thachter of Great Britain. In addition to these Foreign Dignitaries, President Reagan and Secretary of Defense Carlucci participated in memorial services. During fiscal year 1988, Arlington National Cemetery also played host to over 4 million visitors; one of the most visited historic sites in the National Capital Region.

VISITORS CENTER AND PARKING FACILITY

The new visitors center and parking facility was opened to the public on January 16, 1989. Paid parking for visitors using the parking facility was initiated. Under this plan approximately $700,000 per year will be returned to the U.S. Treasury.

COLUMBARIUM

Inurnment activities in the Columbarium continues to increase. In 1980, the first year of operation, we completed 657 inurnments. Because of the advanced age of our World War I and World War II Veterans, we are now averaging approximately 1,200 inurnments per year. All available space in the existing Columbarium will be exhausted by May 1990.

Fiscal year 1989 funds in the amount of $5,764,000 have been appropriated to construct a 10,000 niche addition to the Columbarium. In September 1988, I advised you of a possible increase in the cost of the next phase of the Columbarium. However, by modifying the design and obtaining a more detailed cost estimate, we believe we can construct the facility within requested funds. The bid opening on the Columbarium will be in May 1989. I will notify the Committee of the bids received. This new addition will be completed in April 1990. It is now estimated that the next 10,000 niche addition to this facility will be required in fiscal year 1997.

OTHER CONSTRUCTION PROJECTS

Consistent with the objectives and goals of the 1967 Master Plan for Arlington National Cemetery, continuation of road repair, phase II of the electrical upgrade to eliminate PCB transformers, and repair of rainwater leaks at the Memorial Amphitheater, and demolition of the temporary visitors center and parking facility and development of that land into gravesites will begin in fiscal year 1990. Only one area, of approximately 32 acres, remains to be developed at Arlington for gravesites. This is tentatively scheduled for fiscal years 93 and 94.

Approval of our fiscal year 1990 request will permit us to continue the high standards of maintenance expected at these cemeteries. We look forward to your participation in the dedication of the next increment of the Columbarium when it is completed in 1990.

Madam Chair, this concludes my remarks. We will be pleased to respond to questions from the subcommittee.

ARLINGTON SPECIAL CEMETERY

Senator MIKULSKI. Well, thank you. As I said earlier, Arlington is a special cemetery, and it is very special to me, not only because President Kennedy is there and Bob Kennedy is there, but another Marylander, who I think exemplifies so much about our country, Navy Diver Stetham, who was killed by the terrorist and really took the blows for the civilian population on that airplane. I was at Arlington with his mother, and to be there with his mother made such an impact on me, because then I know how all the other mothers felt, all the wives felt, how all the dads feel.

So Arlington really is a place where many people come to pay their respects, and it is also a tourist attraction, but it is not a theme park. So we have to, at the same time, balance the enormous visitors and provide the infrastructure, but then at the same time maintain the dignity of a cemetery. So I think you have a difficult balance to achieve, because I do believe our biggest tourist attraction is our democracy.

PARKING FACILITY

So this then takes me, having said that, to such mundane questions as asking about parking, but this helps do the job that you need to do.

I would like to ask a question about the parking request. You told the House committee that the cost of parking would be $11,717,000.

What was the actual cost?

Mr. DOYLE. I believe it was $11,900,000.

Senator MIKULSKI. In the course of last year's hearing before this committee, we thought it would be open in October. It is now operational. Were there any reasons for that delay that we should be aware of, or was it just routine construction and other problems?

Mr. COSTANZO. It was just the normal delays you experience in construction projects of that magnitude and nature, but it was nothing unusual.

Senator MIKULSKI. Now with the fees that are collected, how has the public reaction been to paying a parking fee in Arlington?

Mr. DOYLE. Generally, it has been fine. We have had some concerns expressed by the commercial operations, the bus tour operations, but by and large, the reception has been fine.

Senator MIKULSKI. Do you think you are going to have adequate parking now to meet the demands of the visitors?

Mr. DOYLE. Yes, ma'am.

COLUMBARIUM

Senator MIKULSKI. Do you think this will then do it?

On the Columbarium, you planned to open construction bids in November. Now you are going to do it in May. Again, is there something we should be aware of, because this is important?

Mr. DOYLE. One of the reasons that we found ourselves having a slight delay was the need to do additional design work. When we had projections that the new Columbarium could cost as much as $9 million, we went back, spent some additional design funds and

redesigned it to fit better within the money that was budgeted. We now currently believe we can get the work done for just under $6 million.

Senator MIKULSKI. What exactly is a Columbarium?

Mr. DOYLE. A Columbarium is an aboveground structure where cremated remains are placed in niches or vaults. Picture, if you will, but in a much more formal sense, a set of individual 1 foot by 1 foot doors in a wall into which urns containing ashes can be placed. It is about 10 feet tall and would go——

Senator MIKULSKI. It is essentially an architectural structure for those who wish to be cremated——

Mr. DOYLE. Exactly.

Senator MIKULSKI [continuing]. And then have their remains still at Arlington.

Mr. DOYLE. Exactly.

Senator MIKULSKI. Which, of course, requires a special type of facility; is this right?

Mr. DOYLE. Correct.

ORIGINAL REQUEST TO OMB

Senator MIKULSKI. Now I am going to raise some questions about OMB.

Mr. DOYLE. Yes.

Senator MIKULSKI. You are requesting a fiscal year 1990 budget of $12,569,000.

Mr. DOYLE. That's right.

Senator MIKULSKI. Now this is a decrease of close to 5 percent below your current budget. Can you tell me how much you originally asked OMB to do the job you need to do?

Mr. DOYLE. Yes, ma'am. We asked OMB originally for $16,054,000.

Senator MIKULSKI. Well, that is a cut of 22 percent. How would that affect your operations?

Mr. DOYLE. We can break down the categories that the cut was taken in. We reduced our "Other services" account by about $350,000, our "Supplies and materials" account by about $80,000, "Equipment" by $90,000, and the biggest reduction occurred in the "Land and structures" account which was reduced by about $2,965,000.

Now in essence, that "Land and structures" reduction came as a result of a $4.7 million reduction in terms of deferring construction of a maintenance facility that we would have built, offset by an increase of $1.9 million for demolition of the old visitors center.

Essentially, we will be able to maintain the current services that we provide, but we have postponed for a year the construction of the maintenance facility.

Senator MIKULSKI. But it will come due next year, so we are just essentially delaying the inevitable, because this is needed. Again, the maintenance has to be critical to your work. I mean, that is one of the main things you do there.

Mr. DOYLE. There is no question it is, but as with everything else, it is a question of prioritizing and trying to spend as well as we can the limited resources that we have.

Senator MIKULSKI. Well, I would like to know for the record what you will need to postpone or defer or eliminate because of this.

[The information follows:]

OMB REDUCTIONS

Reductions were implemented for raising and realigning headstones, road repair, tree and building maintenance. Ground maintenance and general operating supplies were reduced. Replacement of a tow truck, asphalt roller and cushman were deferred. Acquisition of two additional personal computers were postponed. Construction of a new facility maintenance shop was deferred.

SECURITY INCREASE

Senator MIKULSKI. I have one more question on security and then turn to my colleagues, if I could.

Again, coming back to this facility, you are planning to spend $625,000 for security, an 8-percent increase in security, yet the budget was unchanged between 1988 and 1989. Why is this increase required?

Mr. COSTANZO. Could you repeat that question? The amount for security, did you say was $600,000?

Senator MIKULSKI. You were planning to spend, according to our scrutiny, $625,000 for security. This is an 8-percent increase.

Mr. COSTANZO. Yes, Ma'am, that is the estimated increase. We are currently advertising this contract for bids. We projected the increase based on a recent Department of Labor wage scale determination for the payment of security guards.

Mr. DOYLE. There was a change in that wage rate.

Mr. COSTANZO. It was increased last year; yes.

Senator MIKULSKI. Have you given any thought to in-house security provisions?

Mr. COSTANZO. Yes; we have.

Senator MIKULSKI. Would there be cost savings associated with that?

Mr. COSTANZO. No, Ma'am, we performed an informal cost analysis, and based on that analysis, it is still cost effective to perform this function by contract. It would be more expensive to revert back to an in-house operation.

Senator MIKULSKI. We would like to see kind of a summary of this analysis.

Mr. COSTANZO. Yes, Ma'am, we will provide it for the record.

Senator MIKULSKI. Again, because you must provide security, you have got to look at the most efficient way to do it.

[The information follows:]

Cost analysis guard service

GS–8 supervisor	$23,000
GS–7 shift supervisor, 4 each	84,000
GS–5 guards, 25 each	425,000
Personnel compensation subtotal	532,000
Benefits @ 19 percent	101,000
Uniforms	7,500
Vehicles, 3 each	24,000
Supplies and materials	8,000
Total	672,500

Senator MIKULSKI. Once you do contract out, how do you make sure it just doesn't escalate, once they have the contract, they don't do 50,000 addons with you?

Mr. COSTANZO. We review and analyze each contract when they expire to ensure that the contract price is still cost effective to perform the work by contract.

Mr. DOYLE. And that is required by the A–76 process, as I understand it.

Senator MIKULSKI. Right; the Marylanders know the A–76.

Senator Grassley, do you have any questions for the people responsible for Arlington?

Senator GRASSLEY. I have no questions of this panel. Thank you very much.

ELIGIBILITY CRITERIA

Senator MIKULSKI. Senator Kerrey?

Senator KERREY. Again, I would have some written questions, I would submit.

Just a question of interest, and that is the eligibility for individuals who are buried at Arlington. What are the eligibility requirements and what sort of costs are borne by you and what sort of costs are borne by the individual families?

Mr. COSTANZO. First, let me deal with the costs. There are no costs at all to the family for any of the services that we provide at Arlington National Cemetery. The only costs to the family are those charges made by the funeral home such as the preparation of remains, and transportation to the cemetery. Once the remains arrive at the cemetery, all costs are covered in our normal operating expenses.

There are several different categories of individuals eligible. First would be those individuals who die while serving on active duty in the Armed Forces. The second category would be retired military personnel, those individuals who have devoted their entire life to a military career who have retired and who are eligible for retired pay. They generally have 20 years or more of service. Third, any honorably discharged veteran who has received any one of the following: The Medal of Honor, Distinguished Service Cross, Navy Cross, Air Force Cross, Distinguished Service Medal, Silver Star, or the Purple Heart. Fourth, any honorably discharged veteran who has been separated for a service-connected disability rated at 30 percent or more. The last category are those honorably discharged veterans who have held either national elective office; that is Presi-

dent, Vice President, Congressmen and Senators, or those honorably discharged veterans who have been appointed officials of the U.S. Government at level 1 or level 2.

Additionally, any honorably discharged veteran whose remains have been cremated is eligible to have his remains inurned in the Columbarium.

Mr. DOYLE. The inurnment criteria is a different standard, not as strict as the actual interment standard.

Mr. COSTANZO. Did I answer your question, sir?

GRAVESITE CAPACITY

Senator KERREY. Yes. You got room for all those?

Mr. COSTANZO. Yes, sir.

Senator MIKULSKI. That's a good question.

Mr. COSTANZO. We have sufficient burial space to accommodate our needs to approximately the year 2021 for ground interments and probably 10 or 15 more years beyond that for the inurnment of cremated remains in the Columbarium.

Mr. DOYLE. Additionally, the spouses and certain dependents of people who are eligible to be buried may also be buried in connection with the qualifying serviceman.

Senator KERREY. I have no other questions.

CLOSING STATEMENT

Senator MIKULSKI. Do you have anything else you want to tell us?

Mr. DOYLE. I think we are on the same wavelength entirely on the Cemetery and how important it is. You mentioned your experience with the Navy diver who was killed, as a sign of how tremendously important the Cemetery is. The incident that has struck me most in the little more than 2 years that I have been at the Cemetery involved taking a tour of visiting Soviet citizens through the city. We visited any number of major attractions—the Science Museum, the Capitol, the White House—but the place that made the most impact, was their visit to the Cemetery. I think that experience reinforces the same thought that you had. Arlington National Cemetery truly is a special place for all of us and needs to remain that way.

Senator MIKULSKI. Thank you, Mr. Doyle, and to your staff. We look forward to working with you.

Mr. DOYLE. Thank you, Madam Chairman.

Mr. COSTANZO. Madam Chair, you indicated that you attended the internment service for Seaman Stetham. We would like to invite you to visit again when your schedule permits, so that we can provide you with a comprehensive tour of the cemetery and acquaint you with our total operation.

Senator MIKULSKI. I would like to come, and when I do, I would like to bring my nieces and nephews——

Mr. COSTANZO. Yes, Ma'am, bring your family as well.

Senator MIKULSKI [continuing]. For the exact reason that you said. We've talked about it. I know that their parents have taken them to the Kennedy gravesite. A lot has happened in our country,

and sometimes—history books are one thing, but seeing what sacrifice means is another. So I will be over.

I would also like to compliment all of you on the professionalism when you have had to handle, for want of a better term, special events like Navy Diver Stetham's funeral and the commemoration of President Kennedy's 25th anniversary since his assassination which attract a tremendous amount of people. That involves a lot of crowd control and that's why I talk about some of these special issues. You must have crowd control all the time, but you're not a theme park. That is what I mean. And that is very hard to do.

Mr. DOYLE. Well, thank you very much. The credit for that goes almost entirely to Ray Costanzo. He and his staff are among the finest in the world, and there is no finer public servant than Ray.

Senator MIKULSKI. Well, thank you. We do have questions that we are going to submit for the record.

Mr. DOYLE. Thank you.

Mr. COSTANZO. Thank you.

SUBMITTED QUESTIONS

[The following questions were not asked at the hearing but were submitted to the agency for response for the record:]

QUESTIONS SUBMITTED BY SENATOR MIKULSKI

CONSTRUCTION

Question. You are requesting $4,987,000 for construction at Arlington National Cemetery, a decrease of close to 20% over the current fiscal year. As I understand it, the funds will go to the demolition of the temporary visitors center and parking facility and development of the land into gravesites; continuation of road repair; the electrical upgrade; and repair of the rainwater leaks in the Memorial Amphitheater. Please provide a breakdown of the estimated cost for each project.

Answer. The estimated cost for demolition of the temporary visitors center and parking facility and development of the land into gravesites is $1,868,000; continuation of road repair is $2,420,000; the electrical upgrade is $399,000; and repair of the rainwater leaks in the Memorial Amphitheater is $300,000.

OPERATIONS AND MAINTENANCE

Question. You are requesting $7,249,000 for operations and maintenance, a $599,000 (9%) increase over fiscal year 1989. Your justifications list several reasons for this increase including an increase in the cost for the grounds maintenance and security contracts; improvement of lawn irrigation capabilities; increased cost for employee's compensation; and repair of the Roosevelt fountain and installation of a handicap lift in the Memorial Amphitheater. How does the requested increase break out among these different items?

Answer. The grounds maintenance and security contracts will increase $36,000 and $47,000, respectively; improvement of lawn irrigation capabilities increases $32,000; cost for employee's compensation increases $168,000; repair of the Roosevelt fountain will cost $100,000; and installation of a handicap lift will cost $110,000. Additionally, wall repair projects will increase approximately $106,000.

MAINTENANCE CONTRACT

Question. Your grounds maintenance contract has increased by 17.5 percent since fiscal year 1988 to $1,077,000. Why is the cost of this contract increasing so dramatically?

Answer. At the time that the fiscal year 1990 budget was prepared and submitted to this committee we estimated that the cost of the fiscal years 1989 and 1990 contract would increase because of the additional acreage around the new Visitor Center that is required to be maintained and a reduction in the size of the lawn mowers to be used to perform the work. The new contract was awarded on 16 Feb-

ruary 1989, to Lancaster Landscapes Inc., for $910,000. Lancaster is the contractor who is currently providing ground maintenance service. His performance has been acceptable. This is a 1 year contract and the Government has the option to extend the contract for an additional 4 years. The contract contains a 4% escalation clause for each year that is extended. Therefore, the contract price for fiscal year 1990 will be $946,000.

Question. Have you considered providing grounds maintenance in-house?

Answer. Yes, however, in-house cost would be higher.

Question. What is the cost differential?

Answer. We estimate the in-house cost would be approximately $500,000 more, based on a cost analysis recently performed.

LAWN IRRIGATION

Question. Last year you requested $42,000 to install valve boxes to increase lawn irrigation capabilities. Why is it necessary to further improve lawn irrigation capabilities this year?

Answer. Our lawn irrigation system was installed twenty years ago, it is old and has severely deteriorated. Last year's request covered the cost of only replacing valve boxes. We are now engaged in a program of replacing and repairing broken water lines and sprinkler heads. This will be a 4 year project, estimated to cost between $40,000 to $50,000 per year.

EQUIPMENT MAINTENANCE

Question. You plan to spend $49,000 on maintenance of equipment, an increase of 36% over the current budget. Why is an increase of this magnitude necessary?

Answer. The increase in equipment maintenance is primarily due to the addition of an information management system for our interment operations. The addition of these new computers require a maintenance contract, which accounts for the increase in this area.

ROADS AND WALKS

Question. In last year's budget request you included $90,000 for maintenance of roads and walks, yet I see your current estimate for this activity in fiscal 1989 is only $40,000. Why was your original estimate so wide of the mark?

Answer. Due to budget constraints in fiscal year 1989 we had to decrease our road repair program $50,000.

Question. You are not requesting any funds for maintenance of roads and walks. Can you tell us why?

Answer. Road maintenance is the minor road repairs that we do under small contracts, remedial repairs and repairing potholes. In fiscal year 1990 we have some major road construction to take care of. That is why you see a decrease in maintenance of roads. We are not going to perform any remedial repairs since we have the major road repair project scheduled.

WATER, SEWER AND ELECTRICAL SYSTEMS

Question. You are requesting $78,000 for maintenance of water, sewer and electrical systems, a 70% increase over fiscal year 1989 and a 388% increase over fiscal year 1988 when the budget was $16,000. Why is the budget for this service increasing so dramatically?

Answer. This is where the lawn irrigation improvements are displayed. The fiscal year 1988 budget of $16,000 is our normal funding level, the $42,000 in fiscal year 1989 and $78,000 in fiscal year 1990 reflect lawn irrigation improvements.

TREE MAINTENANCE

Question. You are spending $30,000 on tree maintenance in the current fiscal year. You spent $34,000 in fiscal year 1988 and only $10,000 in fiscal year 1987. No funds are required for tree maintenance in fiscal year 1990. Why is this funding for this activity so sporadic?

Answer. We are obtaining new equipment in fiscal year 1990 that will allow us to perform tree maintenance projects that were too large for our in-house personnel to perform in the past. It will no longer be necessary to contract for this work.

VEHICLES

Question. Last year you told us that 8 vehicles would be replaced in fiscal year 1989 at a total cost of $85,000. How many vehicles do you plan to replace this year and at what cost?

Answer. We will not replace any vehicles in fiscal year 1990 because none meet the mileage or age requirements.

DONATIONS

Question. You have been asked in the past about the possibility of implementing a donation program to supplement the cost of maintaining the cemetery. What plans do you have to implement such a program?

Answer. We are currently encouraging Veterans Organizations and public spirited citizens to donate trees to improve our landscape program. In addition, we are working with the Boy Scouts on a program for them to assist us with the processing and preparation of the grave decorating flags for our Memorial Day program. We will continue to explore other appropriate areas where public donations may be feasible.

INFORMATION RECEPTION CONTRACT/CUSTODIAL CONTRACT

Question. I note your original request for fiscal year 1989 did not include funds for an information reception contract or a custodial contract. I see your current fiscal year 1989 estimate includes $90,000 for the information reception contract and $101,000 for the custodial contract. Why did your original request not include these items?

Answer. The custodial service contract was included in "Other Recurring Contracts" in the fiscal year 1989 request. We decided to display it separately to ease your review. The decision to contract out for the Information Reception services was not made until after the fiscal year 1989 request was submitted.

QUESTIONS SUBMITTED BY SENATOR KERREY

SECURITY CONTRACT

Question. In your written testimony, you refer to an increase in cost for the security contract. What type of security contract do you have and what are the total costs?

Answer. The security contract provides for guards to control traffic during hours of operation and to patrol the grounds at night to prevent vandalism. The total cost in fiscal year 1990 is estimated to be $625,000.

PAID PARKING

Question. You indicated that you anticipated a $700,000 return to the Treasury from the operation of the new parking facility. How did you derive that figure?

Answer. The operation of the parking facility was processed under a lease-bid arrangement. The lessee is required to operate and maintain the facility while charging a specified parking fee. The lessee keeps the fees collected. However, the lessee pays the Government $744,000 annually for use of the facility.

COLUMBARIUM

Question. You indicated that a design change had been made in the Columbarium in order to hold construction costs within the appropriated amount. What was this change?

Answer. The major change was the substitution of pre-cast concrete niches in lieu of individual limestone niches.

CEREMONIES

Question. When non-funeral ceremonies are conducted at Arlington, what are your principal costs—clean-up and security?

Answer. We estimate approximately $150,000 annually. That is primarily to pay the salaries for the custodial personnel to service, clean up and set up the ceremonial areas.

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SELECTIVE SERVICE SYSTEM

STATEMENT OF SAMUEL KENRIC LESSEY, JR., DIRECTOR

ACCOMPANIED BY G. HUNTINGTON BANISTER, CONTROLLER

OPENING REMARKS

Senator MIKULSKI. Well, finally, we want to welcome Mr. Sam Lessey, Jr., the Director of Selective Service. We recognize the importance of the readiness status which the Selective Service provides our country by preparing to supply the armed services with the personnel needed to defend the United States in an national emergency. The subcommittee continues its concern about working with the Service to improve compliance with the registration requirement for 18-year-olds, and we look forward to hearing about the efforts you are making in that behalf as well as in the whole health personnel inventory.

So Mr. Lessey, we look forward to hearing your testimony, if you want to do it orally and submit it to the record. We will be happy anyway you want to present it to us.

Mr. LESSEY. Madam Chair, let me first say I am delighted to be here and also I would like to extend to you my congratulations. If I had known history was going to be made, I might have asked Mr. Kelly if I could have gone first. [Laughter.]

Senator MIKULSKI. What my colleagues don't realize—they were here after this brilliant opening statement that I gave that mesmerized the crowd—is that I am the first woman in the 111-year history of the Appropriations to chair a subcommittee, and this is my first hearing. So it is like being at an "Appropriations Prom" or something. [Laughter.]

But my dance card's still empty, so pour it on, Mr. Lessey.

Mr. LESSEY. I was in the first group.

In keeping with your schedule, Madam Chair, I would be delighted to submit my full statement for the record.

MOBILIZATION READINESS

However, I will make a couple of remarks in this connection. The Selective Service System is a low-profile agency. Many don't know we exist, and I am often asked what we do, which is a way of pointing out that, as you have indicated, our raison d'etre is mobilization readiness. I am happy to report that we feel that we are ready. We do so with a force of about 700 Reserve Forces officers who would be used to expand the system, and we also have 11,000 unsung heroes, our 11,000 unpaid civilian volunteers who sit on the local boards. Many people do not realize that they exist today. I am proud to say that I think they are probably the best-trained and

best-qualified representatives that the Selective Service System has ever had.

REGISTRATION

Importantly, as part of mobilization readiness, our main work is registration of all young men 18 through 25 years of age and about 5,000 young men reach the age of 18 every day. As you can see by the record, our numbers are excellent. They are very high. We are proud of those numbers. However, we are still having difficulty getting the 18-year-olds to register on time; but, as I indicated to Senator Domenici last year, we don't see any organized resistance out there. It is primarily what you might call teen-age procrastination and some lack of public awareness.

HEALTH CARE PERSONNEL

The third thing I should mention, which you just touched upon, Madam Chair, is the new responsibility which the Congress gave us a little over a year ago; that was to come up with a plan, a generic plan, for the possible future registration and induction of health care personnel. We have completed, more or less, a conceptual plan for that. That is one of the budget items today. There is a request in our budget for $360,000 for documentation of the computer program.

I am in the stage right now of talking to various Members of Congress so that they are up to date on this, because I don't want to get into documentation until I am sure everyone is in accord with the progress we have made. I would like to invite you and the other Senators and key staff people down to headquarters any time at your convenience for a briefing on Selective Service in general, but in particular, on the health care personnel delivery system. And frankly, because our hard-working folks get such little attention, I would like to have somebody come down and give them a pat on the back, if that were the occasion.

Thank you.

[The statement follows:]

STATEMENT OF SAMUEL K. LESSEY, JR.

[NOTE: Registration percentages given herein are subject to being updated on a daily basis, and those given in the final copy submitted to the Committee may be more current than those reflected in this printed statement].

Madame Chair, distinguished members of the Subcommittee; it is a pleasure to be here today to testify on the Selective Service System's budget for fiscal years 1990 and 1991.

As you know, the Department of Defense Authorization Act of 1986 requires all defense related agencies to submit two-year budget proposals. For fiscal year 1990, the Agency is requesting $26,313,000, the same level as this year's appropriation. This funding level will enable us to proceed with the development of a Health Care Personnel Delivery System, and cover inflation. Reductions in the military pension accrual rates used to reimburse the military services will generate savings sufficient to cover these costs. The fiscal year 1991 request of $26,700,00 provides for inflation and a public affairs initiative to determine the most effective means for enhancing registration.

Last year, the Congress increased Selective Service's fiscal year 1989 funding by $200,000 above the President's request; $35,000 of this amount is being allocated to a nationwide movie theater project, which is discussed later in this statement. The remaining amount will be used to offset the unanticipated increase in our reimburse-

ment to the Military Entrance Processing Command for our share of the operating expenses at the Joint Computer Center in Illinois.

Selective Service remains the third tier in our national defense, ready to furnish the manpower deemed necessary by the Department of Defense. As part of the Agency's mission, we are responsible for providing the first inductees within 13 days of a mobilization, and 100,000 men within 30 days after a mobilization. It is crucial that this process be equitable for all. To ensure this end, we now have a framework of trained individuals who would establish area offices and boards which would process registrants and adjudicate claims in the event of a national emergency. This organization is supported by an automated, nationwide data processing system which is critical to the success of the mission.

The Alternative Service Program is another of the Agency's major missions. The dialogue with the conscientious objector community continues and, we believe, improves. In fiscal year 1990, we will complete the procedural guidelines for the Alternative Service Program and test the System Users' Guide. We will also develop exercise scenarios using the guide. The Alternative Service Worker Employers' Handbook and Alternative Service Worker's Handbook will be updated and prepared for printing.

Public Law 100–180, approved December 4, 1987, requires the Selective Service System to develop a system for the delivery of a wide variety of health care personnel to the Armed Forces in a national emergency. The Department of Defense estimates that a substantial number of additional health care personnel would be needed within 10 days of a declared national emergency. During 1950–1973, encompassing both the Korean and the Vietnam Conflicts, 30,000 health care personnel were drafted into the military. At that time only seven different categories of health care professionals were drafted. The current requirement calls for 62 categories of health care personnel. We are designing a system that can accommodate a worst case scenario. Procedures will parallel the existing registrant processing system, adhering to policies which have been tried and tested here at Selective Service. We plan to develop computer programs for this vital task, and we estimate that the testing and refining of the program will be completed in early 1991. Much remains to be done in this important area. It is estimated that $360,000 will be required for the technical documentation of the system in fiscal year 1990.

Our Reserve Forces Program generates the mobilization readiness of Selective Service, and is certainly one of the most crucial elements of the Agency. This cadre of well-trained Reserve Forces Officers (RFOs) provides the Agency with its primary source of pre-trained, professional personnel available to supplement Selective Service's small staff upon mobilization. The officers represent all branches of the Armed Forces. The duties performed by these officers are numerous and central to ensuring that we stand prepared to meet our national security responsibilities.

In the event of mobilization, Selective Service would increase from 9 operating sites nationwide to more than 550. The RFOs would be responsible for hiring more than 2,500 civilians to staff the system. They would also establish liaison offices at 70 Military Entrance Processing Stations. They will assist in the establishment of all of the State Headquarters as well as augment the Region and National Headquarters. RFOs also assist in the training and recruitment of local board members and in public affairs efforts to make young men aware of the registration requirement.

To test mobilization readiness, the Agency participates in joint service exercises in addition to its own annual mobilization exercises. In the joint service exercise for fiscal year 1990, we will work with the Joint Chiefs of Staff to test the national military manpower accession process. Our automated systems which interface with the Military Entrance Processing Command will be tested. Simulated induction actions will be processed at the Joint Computer Center. These actions will also serve to test the Area Office Terminal System. In our own exercises, all the Reserve Forces Officers will participate in activating either area offices or State Headquarters. Fifteen hundred Army National Guard Recruiters will receive additional training in mobilization operations. These recruiters, by agreement between the Selective Service System and the Department of Defense, will augment the Selective Service System for 90 days after a mobilization. During the exercises, training for selected local boards will be conducted for 2,200 volunteer members.

Registration is fundamental. Without a successful peacetime registration program, the Selective Service System could not meet its responsibility to provide manpower to the Armed Forces in a timely manner when called upon to do so. While the principal registration sites continue to be the approximately 34,000 post offices across the Nation, a new program was initiated in February 1988. Young men approaching their 18th birthday received a postage-paid reminder mail-back card in-

forming them of the registration requirement. This provided them with a convenient way of fulfilling their obligation. The young man simply had to complete, detach, and mail the form to the Selective Service System. This pilot program resulted in an overall return rate of approximately 21 percent by the end of fiscal year 1988. The cards mailed using the Department of Motor Vehicles (DMV) lists were returned at a rate of approximately 46 percent for the same period. These are extremely successful rates for any mail-back program. As a result, a continuing DMV Reminder Mail-back Program was started in September 1988. Approximately 95,000 mail-back cards are now mailed out on a bi-monthly basis to young men about to turn 18. The mail-back cards now require a postage stamp. This has resulted in some cost savings to the government. As of February 10, 1989, we had received 200,000 registrations from the mail-back program, representing a response rate of approximately 41 percent.

The Congress has been concerned from time to time about registrants having sufficient information about their rights and responsibilities. We provide a brochure in the post offices answering the most frequently asked questions. We also offer this service by phone with our toll-free WATS number which connects callers to our Registration Information Office. The WATS operators responded to 433,000 calls during the last fiscal year. In addition, we offer a free booklet that is available upon request from the Consumer Information Center at Pueblo, Colorado. The availability of this booklet is mentioned in our registration acknowledgement letter as well as in the new registration poster on display in all post offices. In fiscal year 1987, 7,650 copies of the "Information for Registrants" booklet were mailed out. In fiscal year 1988, more than 15,000 were dispatched.

A great deal of our registration effort goes into on-time registration. This refers to young men registering, as the law stipulates, within 30 days before or after their 18th birthday. A major part of our public awareness program is designed to remind these young men of this obligation under the law. Historically, approximately 80% of young men register during their 18th year, and we are constantly working to improve the on-time registration rates. We continue to enjoy a very commendable compliance rate among the draft eligible population, which comprises men 20–25 years of age. During calendar year 1988, 99.4 percent of the young men in this group had complied with the law and registered. The total registrant pool of ages 18–25 numbered 14,958,670, with a 96.3 percent compliance rate.

In our Public Affairs program, we plan to produce one television public service announcement, one radio campaign, and one high school package in fiscal year 1990. The radio campaign will contain an assortment of seven or eight different spots using celebrity endorsements and a variety of formats. The popular country group, The Oak Ridge Boys, have been top supporters of Selective Service and have been featured in a television ad and in radio spots. In addition, the Agency in 1988 received, for the first time, the endorsement of the Advertising Council; this has significantly improved the play rate of these public service announcements. The high school package is an important part of the public awareness campaign and it will incorporate an assortment of posters and ad slicks, an information sheet, and a public address system announcement. The Public Affairs office is utilizing the new desktop publishing technology.This effort can save thousands of dollars in design costs, and at the same time provide the Agency with attractive public information materials.

Selective Service has launched a promising new program to reach 18-year-old men through our nation's movie theaters. This involves reminding young men of the registration requirement, either in a short film clip or a slide to be shown before the movie, along with other announcements. Small programs of this nature are underway in several of our regions, and we plan to expand this project to theatres nationwide.

Approximately 5,000 young men turn 18 every day and registration with Selective Service may not be uppermost on their minds. We are acutely aware that, in spite of the publicity that is given to the registration requirement, there are some young men we miss. We miss them because nearly 25 percent do not complete high school and, therefore, may not see our high school materials. Further, many young men in the inner cities do not have driver's licenses and, therefore, will not be found on the DMV lists which we match against our registrant database. To reach these young men, school drop-out lists are obtained whenever possible, and the young men are sent registration reminders. Other urban registration initiatives include, but are not limited to, flyers enclosed with utility bills, announcements at sporting events, and registration messages printed on milk cartons and grocery bags.

As an integral and essential component of the nation's defense, the Selective Service System remains firmly committed to meeting its important responsibilities.

Madame Chair, this concludes my statement.

Senator MIKULSKI. Well, thank you, Mr. Lessey. Actually, we think you are essential to our country, and it is almost like a silent service right now, but when we need you, we are really going to need you.

I have some budget questions and then a general one I want to come back to.

ORIGINAL REQUEST TO OMB

You are requesting $26,313,000, which is your current budget. What was your original request to OMB?

Mr. LESSEY. That was about $29,600,000, I believe.

And permit me, Madam Chair, to introduce Mr. Hunt Banister, who is the Controller of Selective Service, and he may be assisting me with some of the numbers here.

Is that a correct figure here?

Mr. BANISTER. That is correct; $29,616,000 was our request.

Senator MIKULSKI. You are coming in now with for $26 million. You originally went to OMB for $29 million. What will be eliminated or deferred if you were funded at $26 million?

RESERVE FORCES OFFICERS

Mr. BANISTER. Madam Chair, there were a number of items that we requested of OMB. One of the major items was for funding for our Reserve Force officers. We did not have sufficient funds in fiscal year 1988 to pay all the drill costs. We also had a request for about $675,000——

Senator MIKULSKI. Is the drill cost your mobilization exercises? Is that what you mean by "drill costs"?

Mr. LESSEY. Well, the 728 Reserve Force officers in our program are what is called category A, 48 drill periods a year, plus 2 weeks, or actually 13 days of annual training.

Senator MIKULSKI. Oh, you mean what they have to do to maintain their Reserve status.

Mr. LESSEY. Yes; but they are also used in our program, other than just training for themselves. They are the primary people, for instance, who train all the local board members.

BUILDING LEASE

Mr. BANISTER. Madam Chair, the lease at our current site expires in January 1991, and we are now in the process of negotiating with GSA on that lease. Our request to OMB included $673,000 for systems furniture. I am sure the subcommittee is aware that GSA has a space requirement of 135 square feet per Federal employee, particularly when agencies move to new facilities. It is pretty well recognized by the General Services Administration that, in order to meet that requirement, you really have to move into a systems-type furniture environment.

ADP EQUIPMENT

We requested another $635,000 for normal increases in personnel and other operating costs, and about $0.5 million for replacement

of ADP equipment. Our data entry equipment out in Chicago, where we process all the registrations, has been there since we resumed the registration requirement required back in 1980–81, and that equipment gets an awful lot of use. We figured that it is better to plan now than to be sorry later in the future.

SYSTEMS FURNITURE

Mr. LESSEY. I might add, Madam Chair—my father was a Connecticut Yankee, and my sense of Yankee thrift has a lot of concern over this business of buying $673,000 of new tiny furniture and throwing away the good stuff that we already have; but, we will have to see how the negotiation with GSA goes.

Senator MIKULSKI. I would like to have a list of the differences between the OMB request and the actual budget, so we have a picture of it.

Mr. LESSEY. Yes.

[The information follows:]

OMB REQUEST

The fiscal year 1990 budget request to OMB was $29,616,000. This estimate was derived as follows:

Fiscal year 1989 Appropriation	$26,313,000
Fiscal year 1990 Increases: Fully Fund Unit Training Assemblies	659,000

In fiscal year 1988 and possibly in fiscal year 1989, Selective Service was able to fund only 42 out of 48 Unit Training Assemblies (drills) for its Reserve Forces Officers. Funds were requested to fund the six drills the Agency was unable to fund in fiscal years 1988 and 1989.

Annual Training Travel Expenses	150,000

Funds were requested to cover the increasing costs associated with annual training due to the increased per diem rates authorized and rising air fare costs.

Board Member Training Expenses	75,000

Funds were requested to meet the rising travel and transportation costs associated with training board members.

Public Affairs Activities	100,000

Funds were requested to increase the number of public service announcements currently produced.

Technical Documentation of the Health Care Personnel Delivery System	360,000

Funds were requested for contractor support to document the detailed program specifications, user guides, and operator manuals for the Health Care Delivery System.

ADP Equipment Replacement	324,000

Funds were requested to replace the data entry equipment with personal computers, the minicomputer used to process administrative systems with a microcomputer based system, and to replace limited function terminals with new terminals and an upgraded telecommunications system.

Local Area Network and Communications Controls	90,000

Communications control, and monitoring and diagnostic/test equipment is necessary to bring the AOTS hardware up, on-line and operational.

Physical Security of the DMC	120,000

A recent audit revealed several areas that needed improved perimeter and internal security measures to ensure adequate safeguarding of the records, files, and databases maintained at the Data Management Center.

Systems Furniture 673,000

The lease for the National Headquarters building of the Agency expires in fiscal year 1991 and GSA has indicated that the Agency will be required to move to smaller quarters in order to comply with its 135 square feet per employee space allocation. In order to meet this requirement, systems furniture will be necessary.

Automate Personnel Functions 42,000

Funds were requested to purchase six personal computers to automate many personnel functions now performed manually. It is estimated that the use of personal computers will improve timeliness and reduce overtime.

Replace Copier Equipment 75,000

Funds were requested to replace three copiers located in Region Headquarters. The new copiers would be more efficient and far less expensive to maintain.

Increased Operating Expenses 635,000

Funds were requested to cover the increased operating costs associated with inflation, the annualization of the fiscal year 1989 pay raise, within-grade increases, and the increased cost of FERS.

Fiscal year 1990 Budget Request To OMB $29,616,000

OMB authorized Selective Service to request $360,000 for the documentation of the Health Care Personnel Delivery System and $317,000 for inflation. All other requested funding increases were denied.

EXTRA $200,000 PROVIDED

Senator MIKULSKI. Last year's bill provided $200,000 above the President's request to be obligated at the agency's discretion and with consultation with the Appropriations subcommittee. I am unaware of any consultation between Selective Service and this committee on that, but I then see that you are going to, in your complete statement, use $35,000 for a nationwide movie theater project.

My question is, did you notify the Appropriations subcommittee of that? And then, what is this movie project?

Mr. LESSEY. Yes, indeed. I believe I discussed that with Mr. van der Voort, Mr. Kelly's predecessor, and it was Chairman Boland of the House Appropriations subcommittee who particularly emphasized the requirement which you have just stated. And yes, I did consult with Chairman Boland and with his staff director; and, of the two items mentioned in the statement, the movie program is one that they were particularly interested in. Let me explain a little bit about that.

MOVIE THEATER PROJECT

One of my concerns is trying to reach men who are not registered as 18-year-olds. Also one of my concerns is that some of the people who are not registering are likely to be high school dropouts. Most likely those who remain in school will get the message, because our Reserve Forces officers visit the high schools. Also, we have a high school kit which we provide to all the high schools. So the high schools and other educational institutions are sort of a checkpoint for us.

We also figured everybody goes to the movies. So what I did was to get in touch with Mr. Jack Valenti who arranged an introduction for me to the head of the Motion Picture Theater Owners Association. We are working on a program where we would provide to the theaters either a slide or a short film clip that would be shown

at the beginning of a movie. Some screens require a slide, some screens require a film clip. Now we were lucky in one way. We have enough money in the budget to do one television commercial. I hope you have seen it. It is called "A Conscious Decision," and, thanks to Joe Allbritton, it's played a lot on Channel 7 here in this area. It ends up with a young man saying, "First I'll register, then I'll take in a movie."

TELEVISION COMMERCIAL USED AS A FILM

So what we have been able to do, at not too much cost, is to convert that particular television commercial into the film clip which would be used in the movie theaters. We are in the process of determining now how many of those we would have to produce and then arrange for distribution, some by direct mail and some of which would involve hand delivery by the Reserve Force officers.

Senator MIKULSKI. It's a terrific—terrific idea.

Mr. LESSEY. Well, we hope so. We hope, and we grasp at straws on some of these solutions.

INCREASED COST OF JOINT COMPUTER

Senator MIKULSKI. Now the other question is, I also understand you have an increased reimbursement to the Military Entrance Processing Command for your share of the operating expenses of the Joint Computer Center.

Why was all that so large? You have your unanticipated increase in costs for the Joint Computer Center.

Mr. LESSEY. Yes; we share the cost of the JCC with MEPCOM.

Senator MIKULSKI. Yes.

Mr. LESSEY. The cost is computed every year. It is based on an alogarithim. What it gets down to is how much they use and how much we use. Last year their usage went down, so our share of the costs are going up. That is really sort of an after-the-fact thing, but that is the explanation for it.

REGISTRATION IMPROVEMENT

Senator MIKULSKI. In the past improving registration has been a major objective, and this is what we have talked about. You are requesting $6,300,000, a decrease of 9 percent below the current estimate. Where will these cuts be taken?

Mr. BANISTER. Right now we are forecasting about $395,000 for the Registration Improvement Program in 1989. We had planned earlier last year to spend about $589,000 for this program. So we do have a reduction in the program. The largest reduction is in the active duty for training travel expenses, if you will, for our Reserve Force officers. I should point out that we have had to undergo some major budget reductions throughout the agency. However, we felt that we could cut out some of the field activities for registration improvement without having a major negative impact upon the program.

Mr. LESSEY. Admittedly, we have eliminated special tours completely. In the past, some of the Reserve Force officers were placed on special tours tosupport the Registration Improvement Program.

Senator MIKULSKI. Let me just go to the point of our question. We want to get as maximum a compliance as we can. We want to make sure you have the resources to do the maximum compliance and outreach and all the things that you have to do, and also there are certain areas of low compliance, New York City being one. The District of Columbia, the Nation's Capital, being another. And, of course, you know demographically where the 18-year-olds are and who is complying, and so on. So that is really the thrust of what we are asking. Do you have the resources to do it? Do you intend to target these areas? What is happening and what can we do to make sure you have the resources and essentially the mandate to do it.

Mr. LESSEY. I think my biggest concern in that area would be to see that the rest of that drill pay, which was dropped out because of the Omnibus Budget Reconciliation Act of 1987, was restored.

REGISTRATION BY MAIL

But what I was leading up to, I think is also important to your question. It is another example of an initiative which is not in that "Registration improvement" account, but is something else we are doing. We used to send a birthday card to people who were about to turn 18. We now have a mailback birthday card that we send. This helps us in several ways. First of all, we don't pay the Post Office the 72 cents for that registration because we get back the registration on the card.

Senator MIKULSKI. So they are doing registration almost the way you can do voter registrations by mail.

Mr. LESSEY. Well, this is just one way for young men to register. We are up to about 95,000 mailings a month to individuals on specified lists. This was designed to improve our on-time registration rates. It seems to be helping, and we also think it saves us a little money.

So I did want to make sure that you knew that that program is something we are doing in terms of registration improvement.

Senator MIKULSKI. It tends to be big cities where there is a dropout problem—like the New Yorks, the Bostons, the Los Angeles, et cetera. Is this where you are seeing the registration problem?

Mr. LESSEY. I would say that is where they are. I have also worked with Congressman Pickle because of his concerns about the high school dropouts in the Mexican population, for instance, in the southwest part of Texas. Some task forces of Reserve Forces officers were trying to help in those areas.

Senator MIKULSKI. Well, I am going to come back to a bill I've been working on that might increase some participation too.

Senator Grassley, do you have questions?

Senator GRASSLEY. Yes.

Senator MIKULSKI. My time is up; I will come back to others I have.

Senator GRASSLEY. Yes. I have one general question, and then I am going to submit additional questions that you may give me answers in writing. First of all, I need to thank you for coming to my office and sharing with me, a general overview in anticipation of

this hearing. I think you did a very good job, and consequently that limits the number of questions I want to ask you right now.

MOBILIZATION READINESS AND EXERCISES

But I would like to ask in regard to mobilization readiness. Is the plan and the results in any way classified material?

Mr. LESSEY. No; we can talk quite freely on that, sir.

Senator GRASSLEY. So then the plan is not classified. I just wondered about the results of the test Does it meet the requirements each year that you have this test? Have you met the minimum requirements?

Mr. LESSEY. Yes. The mobilization exercises which we have been conducting are successful, and they have improved considerably in the last 8 years.

Now we haven't tested the whole system at once. We haven't had mobilization exercises for all of the area offices at the same time because we are still waiting for the IBM computers to be installed in all of the recruiting offices. That is something that we hope to be able to complete in fiscal year 1990.

Senator GRASSLEY. So you have seen steady improvement over the last 8 years?

Mr. LESSEY. Yes.

Senator GRASSLEY. Does that assume that sometime during that 8-year period of time, they were not up to a preconceived standard of what they ought to be in the case of meeting our demands for wartime situations?

Mr. LESSEY. I would say if you went back to, say, Proud Spirit '80, an exercise in 1980, we were still short. And, of course, at that time, our system hadn't expanded. We now have those 11,000 board members out there. They didn't exist at the beginning of this decade. We have gone from 0 to 11,000, and it has not been easy. It has been a tough struggle. But I rest comfortably with our mobilization capability at this point; yes, sir.

Senator GRASSLEY. But in regard to the standard that must be met, who sets the policy of the standard that must be met that you are measured against?

Mr. LESSEY. Well, I am setting it as far as our System is concerned. However, we do have joint exercises that are also under the aegis of the DoD; and, of course, we test with the Military Entrance Processing Command [MEPCOM] the mobilization capability of our system. So there is a regular DOD evaluation out of DoD on that. Some of that is done by the exercise teams and exercise consultants, the companies which specialize in that area.

Senator GRASSLEY. Madam Chair, I'm done.

Senator MIKULSKI. Thank you very much, Senator. It was an excellent question.

Senator Kerrey?

Senator KERREY. Again, I've got questions that I would submit for answering later.

NECESSITY AND EQUITY OF FUTURE DRAFT

Senator KERREY. I would just ask one. Before I do, I do need to indicate that the last wonderful speech I gave prior to becoming a

politician, and I became a politician in 1981. The last wonderful speech I gave in the fall of 1981 was in opposition to the reestablishment of the Selective Service. Having fallen under the draft in 1965, I wasn't a big fan of reestablishing the draft. Now I wouldn't go so far to say I have seen the error of my ways, but I do see the need for Selective Service in the midst of establishing a readiness component for mobilization in some national emergency, but I am still concerned about a couple things.

One is, How do we select? Is it a proper name anymore to call it Selective Service, or is it a general registration of all 18-year-olds without regard for sex or disability?

Mr. LESSEY. Interesting. I have never heard anyone raise the question of the terminology, but that is, of course, the root of your question. I would say I think we are at the fairest level it has ever been because of the reforms which were passed following the Vietnam era, for instance, in terms of such things as student deferments. As it stands now, a high school student is deferred only to the end of his year, a college student to the end of that semester.

I am glad that you raised the question because it is one of the things that I am working on. For instance, you talked about New York. My deputy was up in New York City the other day meeting with Richard Green, the chancellor of the school system, trying to work on how we can improve registration there. In connection with that, we have an outreach program with some of the minority leadership groups, because some people do not realize, nor understand, that the system has changed. The standard statutory deferments and so forth are still in there, such as ministerial students. But it is now a national lottery. It isn't as if one person in one section of the country who has the same number would not be called while someone in another section would. I think it is about as fair as it can be.

FEMALE REGISTRATION

Senator KERREY. But insofar as registration is concerned, do both male and female need to register?

Mr. LESSEY. No; only males are required to register. That was the way Congress passed it; this was challenged in the courts; and, when it was appealed to the Supreme Court, by a vote of 6 to 3 back in 1982 the Supreme Court ruled that the Congress could specify a male-only registration if they wanted.

MINISTERIAL STUDENT DEFERMENTS

Senator KERREY. So it is a male-only registration. Are there any other—you mentioned ministerial students don't have to register?

Mr. LESSEY. Ministerial students are granted deferments, but they still must register with Selective Service. That's something that has been in the statute for years.

Senator KERREY. So it is very much selective? It is still very selective?

Mr. LESSEY. Registration is selective only in terms of age and sex.

HEALTH CARE PERSONNEL

Senator MIKULSKI. If the Senator will yield, we will be asking a question in a minute or two about regulations concerning conscientious objectors as well.

However, when we talk about the health care personnel delivery system, something else we have asked them to deal with, our concern is that in the all-volunteer army, there is not a lot of medical personnel. Before you drafted a doctor—the people that would be there in the event of a national emergency. In the event of a national emergency, we have asked Selective Service to compile an inventory of medical, not only medical but health personnel, the doctors, the nurses, the paramedics that would need to be mobilized for any type of national emergency.

Mr. LESSEY. The Department of Defense has come up with 62 categories of health care personnel.

Senator MIKULSKI. Including the civilian one, like an Armenian earthquake, where we would need to know where we could get our hands on people over and above. And I mean that to reach out to people. This then will take us to a registration of women; am I correct?

Mr. LESSEY. Well, Madam Chair, as an example, 95 percent of the nurses in this country are women. Probably one-third plus of the students in the medical schools today are women. So you really could not reach the Department of Defense requirements in the health care personnel area without including women.

Senator MIKULSKI. Oh, I know that. In fact, when we had the debate when I was a House Member and we reinstituted this, I supported the registration of women. However, there was this bond of the brotherhood that just felt this was not going to be appropriate. It met with widespread opposition both within the Congress as well as within the civilian population. But this will now shift with the health care personnel delivery system. Am I correct?

Mr. LESSEY. If the Congress so deemed. I do have fallback data about what we could deliver in the way of health care personnel if there were not a registration of women.

Senator MIKULSKI. I will come back to that, but I want Senator Kerrey to get a bit of the flavor of—as he asked his question about this.

Mr. LESSEY. Now that we have discussed this a bit, I think, Senator, I probably should have said, yes, of course, the system is selective, because it is selective as to sex and it is selective as to age. So just on those grounds.

Senator MIKULSKI. Physical impairment.

Mr. LESSEY. Yes; for induction, but not for registration.

Senator MIKULSKI. Am I correct?

Mr. LESSEY. Yes, yes, indeed.

Senator KERREY. Well, good. Then that gives me some reasons still to dislike it. [Laughter.]

Senator MIKULSKI. Do you have any more to say? [Laughter.]

Mr. LESSEY. Sir, I am honored to sit across the table from you, and you know that. So this is delightful. Go ahead.

BIRTHDAY REMINDER CARDS

Senator KERREY. Thank you.

I am just trying to get a feel for the flow of it. On the 17th birthday, approximately a million males a year get a birthday card or sometime, notifies them that on their 18th birthday, they should register or is it prior to the 18th birthday?

Mr. LESSEY. Yes; we are sending about 95,000 cards a month.

Senator KERREY. So you got about a million 18-year-olds—17-year-olds?

Mr. LESSEY. No; 18th birthday. It arrives shortly before their 18th birthday.

Senator KERREY. Notifying them that they are——

Mr. LESSEY. Reminding them that they need to register.

Senator KERREY. Not notifying.

Mr. LESSEY. "Happy birthday." [Laughter.]

Senator KERREY. Oh, God.

Mr. LESSEY. Senator—as a matter of fact, the card is pictured in the budget justifications. It even has a cake with a candle on it.

DMV LISTS

Senator KERREY. Oh, boy. And then you cross-check with driver's licenses in how many States?

Mr. LESSEY. I think all States except two.

Senator KERREY. And do you know what those two are?

Mr. LESSEY. Yes; Montana and Hawaii.

Senator KERREY. Then you have, as well, in a number of States, as I understand, an actual requirement for State employment that an individual be registered?

Mr. LESSEY. Oh, yes. Federally, there is the Solomon amendment—Congressman Solomon—and the Thurmond amendment—Senator Thurmond—and there are approximately 18 States which have Solomon and/or Thurmond type amendments.

Senator KERREY. In my question, I asked if you could give me a list of those States.

Mr. LESSEY. Yes, indeed.

Senator KERREY. That's all.

Mr. LESSEY. There's the birthday cake. [Laughter.]

COMPLIANCE RATES AND PENALTIES

Senator MIKULSKI. Following up on Senator Kerrey's questions.

In talking about compliance and penalties, what is the percentage of nonregistrants to registrants for all draft-eligible groups, and how does it compare?

Mr. LESSEY. Well, right now, for 1988, in the 18 through 25 pool, the compliance rate, the best we know, is 96.3 percent.

Senator MIKULSKI. What are the penalties? How do you enforce this?

Mr. LESSEY. Maybe I should explain it in connection with Senator Kerrey's question. There is another number which we call the draft-eligible group, ages 20 through 25, because if there were a draft, it would start with age 20, and the compliance rate for that group was 99.4 percent for the year 1988.

Senator MIKULSKI. How do you enforce this, and are there penalties for noncompliance?

Mr. LESSEY. The law, of course, is that you register within 30 days either side of your 18th birthday or you have committed a felony, subject to a fine of up to $250,000 and/or 5 years in jail. There have only been 20 prosecutions since registration came back. Those are listed in the back of our budget justifications. There have not been any prosecutions recently. Our goal is registration, not prosecution. Someone who is not registered receives a third compliance letter. It states that if he does not register, his case will be turned over the Department of Justice for investigation and possible prosecution. We leave that up to the Department of Justice.

CONSCIENTIOUS OBJECTORS

Senator MIKULSKI. I have a couple questions about the conscientious objector status.

Last year you discussed with the House the proposed affirmation of faith regulations which stipulate that alternative service with one's own church was no longer acceptable, and you received quite a bit of protests from the Mennonite faith.

I wonder how that was resolved and how are we proceeding with the conscientious objector.

Mr. LESSEY. Madam Chair, that proposed regulation, in my opinion, was very much misconstrued and misunderstood. So I just scrapped the whole thing; the regulation has been dropped, much to the delight of my friend, Reverend Yolton over here, who represents NISBCO, and who is a spokesman for the conscientious objector community.

Senator MIKULSKI. He represents who?

Mr. LESSEY. Do you want to state your——

Reverend YOLTON. The National Interreligious Service Board for Conscientious Objectors.

Mr. LESSEY. Since that time, I have had the pleasure of meeting with Reverend Yolton's board who are representatives of each of the church groups.

At any rate, that was a greatly misunderstood regulation, and it has been dropped completely.

HEALTH CARE PERSONNEL

Senator MIKULSKI. Thank you.

Now, this goes to the question of the health care personnel delivery system. I would like to get to the heart of the issue here.

I was one of the ones who really advocated the need to have an inventory of personnel, in the event of any type of national emergency, not only a military one but our own Armenian earthquake. My State of Maryland is within sight of two nuclear powerplants that have had difficulty—Peach Bottom and Three Mile Island. Had there been a problem, say, at Peach Bottom or Three Mile Island, we would have had to mobilize not only Maryland but our entire whole area to receive casualties. And, of course, this is site-specific, but it was meant to be also in the event of an extraordinary, beyond-Red Cross-capability-to-respond emergency. That, of course, would mean the registration of women—or if we call it reg-

istration. I am not sure how it has been conceived to be implemented, what have been the obstacles or perhaps none that you have run into and also why in the dickens has it taken so long to do it, because we have talked about this for years?

Mr. LESSEY. Well, Madam Chair, the Selective Service was not tasked for its part in this until approximately a year ago. This was in the Defense authorization bill which was signed as part of the continuing resolution on December 4, 1987. And I was not provided with any money or resources.

Senator MIKULSKI. That is right. The public law says for war. I guess I think of it a little bit more broadly.

Mr. LESSEY. Yes. It is a broad question, even without the——

Senator MIKULSKI. You know, I've got FEMA under the jurisdiction of this committee and—go ahead.

Mr. LESSEY. Even, of course, without emergencies, there is a national problem in terms of things like shortages of nurses and so forth.

Now, you used the word "implementation." We are tasked only with doing the spade work, the mechanics of coming up with a plan, so that if Congress wished to use it, it could do so. Our coordination has been within Government agencies. There hasn't been public involvement in this so far because it is still simply just the mechanics. As I speak, I look forward to having an opportunity of briefing you or any other members of the committee on the Health Care Personnel Delivery System. We are prepared, if no one objects, to move into documentation before the end of this month.

Senator MIKULSKI. What is "documentation"?

Mr. LESSEY. Documentation means turning this over to the computer experts. I am happy to say they have been working with this project from the very beginning. The systems development people have to come up with a computer program. This is not going to be easy. During the doctors' draft we brought in maybe 30,000 doctors over a 23-year period. We now have come up with 62 different types of health care personnel.

Senator MIKULSKI. Like LPN's, pharmacists.

Mr. LESSEY. Yes, anesthesiologists, and so forth and so on.

Senator MIKULSKI. Just look at anybody that HHS reimburses and anybody else that wants to be reimbursed by HHS, and then they come out of the woodwork. [Laughter.]

Mr. LESSEY. In terms of your concerns and those of Senator Glenn and others, the Defense Department requirements are based on the shortages in the area of about 6,000 doctors, 31,000 nurses, and 73,000 technicians. You are talking about maybe 110,000 or so health care personnel, and they want these people immediately, if not sooner, upon a mobilization.

Senator MIKULSKI. Let me share something with you because I sit on Senator Kennedy's Labor and Education Committee, and I am very close to the nursing community in this country, both looking at their issues for the nursing shortages, and so on.

See, I am clear on what we want. I am not so sure a lot of other people are however. There is a great deal of concern among the community—does this mean a draft? I am not sure when I look at this language, whether everyone was clear on the legislative intent. It was to be an inventory available for mobilization in the event of.

When I go out to the highways and byways of Maryland, there is a concern—and it is not a growing one. I don't mean that it is ripening in a process—that this means, "Gee, you know, I am a nurse at Sinai"—for "a nurse at Mercy—they put me on a list. Does that mean I am going to be drafted? I am a mother with three kids."

It is that kind of bubble, bubble—it could be boil and trouble. That is why I think, as you prepare your plan, there has to be some type of consultation with personnel, because they are going to be worried that they are being signed up to be drafted.

Mr. LESSEY. Of course. We are not even involved in any legislation calling for a draft or registration of these personnel. No one is even breathing the word "draft." We are not even breathing the word "registration" in terms of health care personnel.

Senator MIKULSKI. But there are certain professional associations—the American Nurses Association, particularly the Clinical Labs Association, and so on—that I think are not clear on this, and I think some briefing at an appropriate time, but not a prolonged time, would go a long way.

Mr. LESSEY. We were under the impression that both the Senate and House Armed Services Committees will probably be having some kind of hearings in the medical area in the not-too-distant future. Some of those folks have spoken to me about the possibility of calling me to appear at that particular time.

Senator MIKULSKI. I am sure they will, but I am saying that since you been asked to help develop the plan, my advice to you really would be to consult with some of these civilian groups. Also they will be able to advise you on how you are going to be able to get compliance, because your plan has to deal with how you get compliance.

I am telling you what is going to happen. If we don't involve the people who are going to be the most affected, the minute this hits the streets, there will be all kinds of trouble. And if you want to see lovely ladies in white uniforms and blue caps marching in a Nightingale procession, I know the way it works, and I just think some conversation now will go a long way in dealing with some of these concerns.

Mr. LESSEY. I think you are absolutely correct.

Senator MIKULSKI. It is just a little bit about street smart. I might not be computer savvy, but I know constituents.

Mr. LESSEY. Well, I guess I thought Congress ought to be involved first, and that is why we are here today.

Senator MIKULSKI. You just can't order—you see, armed services just thinks—and it goes along with some of the questions Senator Kerrey was raising. You just can't order somebody to do something. It has been a long time—I took some college students yesterday to the Vietnam Memorial. We went to the Lincoln Memorial, we came to the Vietnam Memorial. It is a very moving and touching experience. Vietnam, to them, with all due respect to heroes like Senator Kerrey—and these are good kids who study history and are from homes where patriotism means something—Vietnam could be 50 years ago. It could be 150 years ago, to a 19-year-old.

So there is no sense of this. And to that 22-year-old nurse—my niece just got back from a student exchange in Israel, where she met girls who had been drafted. She doesn't know anybody in her

whole life who has ever been drafted, let alone girls who know how to shoot Uzis.

So there is nothing in our psyche that would prepare people for any kind of mobilization, particularly when you go to a field that, apart from the doctors, will be primarily female, I think there is a lot of groundwork to be done. I am not advocating their draft; I am just being very clear in what I think some of the congressional intent is, and the Armed Services Committee is not going to think like this. Or it might. I shouldn't be disrespectful. Senator Glenn will. I know Pat Schroeder, Barb Boxer over there will. But we don't want unnecessary fears.

HEALTH CARE PERSONNEL

Mr. LESSEY. Absolutely. I should mention that, of the approximately 5 million health personnel of these 62 categories in the United States, the Defense Department requirements could be met with less than 2 percent of that total.

VOLUNTARISM

Senator MIKULSKI. What we will deal with, sir, is fiction. [Laughter.]

Now let me just ask a couple of questions which call to voluntarism, an idea I am working on. Let me ask you about your volunteers. Who are they, and do you need more of them? These 11,000 people you talk about.

Mr. LESSEY. No; they are the members of the local boards and the appeal boards throughout the United States. They follow pretty much the traditional geographical arrangement, not literally everywhere by county line because of population differences. They are volunteers who meet the statutory requirements of the Military Selective Service Act. The composition of each board is designed to be representative of the demographics of registrants of that particular community which it represents.

We do not have any problem with our recruiting of local board members.

Senator MIKULSKI. Why?

Mr. LESSEY. Because, I guess, they're good people and patriots.

Senator MIKULSKI. Because it is a quiet agency——

Mr. LESSEY. Yes; that's true. At a time like this, but I would say that there are people out there in the country who are happy and willing to serve. In fact, we have waiting lists for many of our boards.

UTILIZE CONGRESSIONAL NEWSLETTERS FOR AWARENESS

Senator MIKULSKI. Just a suggestion, and I don't know how my colleagues would feel about it. But when we talk about doing the outreach to gain compliance, all of us have newsletters, all of us often run columns in weekly papers. I have a little column in Maryland that I put out to a couple of hundred weeklies. Say "Ask the Senator," And I have, "Gee, I'm a vet, and I want to know if I am still eligible for the GI bill. I served in Vietnam." And they come in. I write a little answer, and it is usually a tip. We all put

out newsletters. As you know, we are, in fact, often criticized for that. And you might want to do a kit for Members of Congress who would choose to put it in their newsletter just to say a reminder to register.

Mr. LESSEY. We have done some of that, and perhaps we can do more, Madam Chair. In fact, Senator Kerrey, as a new Member, received a copy of my annual report, with a letter, in which we communicated to him that we would be happy to supply information for his newsletter supporting our program.

Senator MIKULSKI. If Senator Kerrey's like me, in my first year as a Senator, I had 194,000 letters, all from distinguished people like yourself and other Marylanders who just had some views. [Laughter.]

But my suggestion goes to attention to the Member but to the press person, and then a Member can make up the choice, if they would choose to do it.

Mr. LESSEY. Excellent idea.

NATIONAL SERVICE

Senator MIKULSKI. Now my last question. My background is that of a social worker and probably my expertise is in volunteerism and how you organize people. That is why I know a little bit about some of the work you have in the health area.

Senator Nunn and I are working on an idea—Senator Kerrey has participated in the discussion—of national community service. And I am now going to ask you about where you think some 18-year-olds are and the impact this might even have in stimulating people to register.

We are concerned about two things. One, access to the American dream. Kids could afford higher education. First time homeownership. But the other, what we call a sense of civic obligation or even habits of the heart. Neighbor helping neighbor. All this is part of our country.

Mr. LESSEY. De Tocqueville.

Senator MIKULSKI. Most young people have no sense—that's right; de Tocqueville. Good of you to recognize it. There has been a recent study reevaluating it.

Anyway, most people have not been asked to do anything. In fact, their memory of even seeing anybody asked to do anything—my memory as a child is my uncles being drafted, the Korean War. I mean, I'm part of all of that. Being asked to participate in these activities. Peace Corps. A whole variety of other programs. Young people today over the age of 18 between the age of 18 and 30, have very little memory of that. So we are talking about a voluntary—I emphasize the word "voluntary"—national service program, where kids could either go 2 years into existing community service, a la VISTA, Peace Corps, or under mine—I would like to model mine on the National Guard—in which we would ask kids to give two weekends a month or about 20 hours a month working on weekends. Volunteer fire fighter. Weekend meals-on-wheels. Building houses for Habitat for Humanity, for which they would get vouchers.

Under the Nunn idea, they get a $10,000 voucher to be used to reduce student debt or as a nest egg for first time homeownership.

Under my plan, you would get $3,000 a year, because you would be living at home, and so on. Again, for the same purpose, either to reduce your student debt or toward your student tuition. If you did it before you went to college, or if you were a nonhigh school graduate or you paid off your loan another way, it is like a housing IRA, a down payment toward first time homeownership.

You deal a lot with young people and their attitudes. You have to know a lot about them. What do you think would be the response to this program?

Mr. LESSEY. That is a $64,000 question. I am really not qualified to speak for that group. However, I would only reiterate the point that I made earlier in terms of the legal requirement to register for the Selective Service. We don't see a lot of what I would call organized opposition. I realize that doesn't help you very much, but it is one point. There is, and you are almost echoing this, perhaps a teenager, lack of attentiveness or apathy, and maybe some of that is because people have never asked much of them.

I am aware of your proposed bill, and something did come to mind when I read it. That it would be helpful if your participants were required to be registered with us. Second, if this should come to fruition, I think it would be good for your proposed organization and for the Selective Service System, if language was included in the legislation that you would have access to our database, if you wanted it for any reason, and vice versa. I realize these are minor points in the conceptual phase of your proposal, but people look toward us. I have received inquiries whenever this question of universal service comes up. Of course, I have to be careful to indicate that it is not a responsibility of mine.

NATIONAL SERVICE

Senator MIKULSKI. Let me be clear. Senator Nunn's idea was, and of course, mine is, that this would be absolutely a voluntary program. First of all, we couldn't absorb the entire young people population. But there is a sense of the need for obligation. Senator Kennedy is talking about a high school program. We have one in Maryland that you need to do some community service or you can, for high school credit. My niece did this in Montgomery County. Excellent experience. She got kind of three credits, senior year in high school and worked in a soup kitchen a few hours a week. And I'll tell you, it certainly added to her maturity. I don't know if she helped the poor, but the poor certainly helped her get a sense, even from a good home, about the needs of another person.

Again, it is these voluntary efforts, but——

Mr. LESSEY. Maybe the other thing I could add here is that our voluntary registration situation certainly has improved in recent years.

Senator MIKULSKI. It has?

Mr. LESSEY. Yes.

Senator MIKULSKI. People are more aware or more willing to comply.

Mr. LESSEY. Both, both; yes.

Senator MIKULSKI. Senator, did you have questions?

SELECTIVE SERVICE VOLUNTEERS

Senator KERREY. Just one, sort of a followup, actually. I was impressed, as well, by the number of volunteers. Eleven thousand is a tremendous number.

Senator MIKULSKI. Isn't that something?

Mr. LESSEY. Maybe I should preface here that these people on local boards are recommended by the Governors of the States, and then I appoint them in the name of the President.

ATTITUDE OF 18-YEAR-OLDS TOWARD SELECTIVE SERVICE

Senator KERREY. It's a big number.

Prior to the question, I am a little concerned about what I consider to be the rather tender stage, particularly of an 18-year-old. By that I mean, that in my opinion, most 18-year-olds have just begun to develop a moral foundation of what's right and what's wrong. Just beginning. Had some development, but they are just beginning to develop, in that they are now going to be on their own and having to test it, not just doing what their parents tell them to do but now they are going to be out on their own, and their own conscience now is going to have to guide them.

So I am very much concerned about the attitude of Selective Service toward these young people. In fact, I would argue that there is a considerable willingness on the part of young people to volunteer, to participate. And I am not so certain that there isn't an even greater desire than there is amongst older people. It would be interesting, just for the sake of the argument, for a year to require people from the age of, let's say, 38 to 45, to sign up for Selective Service, just to see whether or not we were able to get a 96 and a 99 percent signup rate. I suspect the signup rate would be considerably lower. And the protest, we may have an organized protest at that point, if we advance the ages by 20 years or so.

So I am very much concerned about it. I had an argument once with a friend, and this makes a longer statement than it ought to be prior to the question, but an argument with a friend of mine who had seven tours, full tours in Vietnam, and we were arguing about the draft. I took the position of Selective Service that the reason we selected people at the age of 18 was we really didn't like them. [Laughter.]

They were kind of a threat to us. This is my argument. They are kind of a threat to us. They've got a lot of energy. You know, they want to do things now. We don't like their music or whatever, you know, and so let's get 'em away and let them do their service for a while.

He came back with an argument that I believe is correct, and that is, that between the ages of 18 and 25, if you give me the control over that individual, so that I can determine two things. One, when and how much they will eat, and two, when and how much they will sleep. That if you give me the control to do those two things, I can get that person, from the age of 18 to 25, to do anything I want them to do. Anything. When they get to be about 25

or 26, they start asking questions, and then they are much more difficult to control.

I believe that his observation is sound. I believe that is right. And as a consequence of that, I am concerned about our attitude toward these 18-year-olds. In the process of training your volunteers, what sort of work do you do to sensitize them or to make them concerned about what I consider to be the rather fragile nature of an 18-year-old?

ATTITUDE OF 18-YEAR-OLDS TOWARD SELECTIVE SERVICE

Mr. LESSEY. First of all, let me mention something historical which may support part of your first analysis. I have learned from the old-timers that have been around for a while that, when there used to be a draft, they brought people in at 25 first and worked down. Now the Defense Department has decided to start with age 20 and work up. The 18- and 19-year-olds would probably not even be drafted, at least until they reached the age of 20.

The local board members receive a day-and-a-half of initial training; then, each year they receive continuation training, which is about 4 hours.

I would have to go back and review the program before I could give you a completely sensitive answer to the nature of your question, but I have been to the field, and I have sat in on certain parts of these courses. They are designed to portray real-life situations. These things have been put together by training experts. There are realistic tapes and case studies and law school situations. As a matter of fact, when we have mobilization exercises, and we mobilize a number of these boards, the board members are given real-life cases in order to test and evaluate their training.

The only other thing that I could add is that they are representative in terms that the board members are of all ages, both sexes and from different walks of life. Of course, as I indicated earlier, they fit the registrant population of that area, demographically and ethnically.

The historic philosophy of the Selective Service System is that it is supposed to be grassroots, and of the people, and for the people, and by the people, if you will. I think it still fits that criterion. You are being judged by the people in your own particular community.

It is civilian in nature. Retired military people, for instance, are not allowed to be board members, by statute.

Then we have other policies. We don't let former employees or relatives of employees of the Selective Service System be on these boards. We prefer not to have law enforcement associated people on these boards.

I think we have gone just about as far as one could to make these local board members appropriate.

Senator KERREY. Can I do one short followup?

Senator MIKULSKI. Sure; this is very interesting.

Mr. LESSEY. Please.

SAMPLING OF ATTITUDES OF 18-YEAR-OLDS

Senator KERREY. Have you thought, or perhaps you have already done a sampling, an actual sampling of the opinion of an 18-year-old toward the registration that they just completed?

Mr. LESSEY. Yes; we have. We had some projects a year or so ago with some group sessions, where our public affairs representatives met with groups of young people to get their reaction to certain things. I would be glad to furnish that report to you.

Senator KERREY. Was it a professionally done sampling? I mean, your question, Madam Chair, about the attitudes of 18-year-olds.

Mr. LESSEY. A focus group is what they called it.

Senator MIKULSKI. Yes; that's what we're talking about. Do you do focus groups?

Mr. BANISTER. Yes.

Mr. LESSEY. As one of the budget items you have before you, there is a proposal for some more work in this area in fiscal year 1991.

Senator MIKULSKI. You know, I would like to see some results of those focus groups, because Senator Kerrey and I think a lot alike on this, and I think it is how we involve young people, how we inspire them, how we don't coerce them. At what point do we best intervene? Not to brag about my own national service idea, but mine is really for any age group. It is called Fit for Duty, which means that you can have a physical impairment, be 32 years old and a displaced homemaker and still be able to come into my voluntary program, because you can teach somebody who is an adult how to read or do something along those lines. I am interested in what the focus groups say about young people and the way they are reached out to, where there is inspiration but not coercion.

Mr. LESSEY. We haven't done a lot in that area.

Senator MIKULSKI. Are those of the things that you were interested in?

Senator KERREY. Yes. I mean, do they feel, for example, that they are being harassed? Do you they feel—you know, I am aware——

Mr. LESSEY. You mean by having to register for Selective Service?

Senator KERREY. Yes.

Mr. LESSEY. No.

Senator KERREY. I am aware that there are two possibilities, it seems to me, once you have selected me to serve my country in some way or another. I can either love my country more or I can love my country less, and it would be of interest to me to discover whether or not the process of registration itself has provoked. I mean, has it produced 18-year-olds who understand an obligation when they see it and sign up, or has it produced people who say, "God, I couldn't get employed in the State of Nebraska unless I signed up." I mean has it produced people, young people whose attitude toward their nation is now more mature or is it more hostile? That's the sort of thing.

Mr. LESSEY. I would think, Senator, there are always going to be, across the continuum, various opinions, but I think most of them look at it as another little bureaucratic chore: that they had to go

sign up. You know, we do it at the Post Office; it takes 5 minutes. It's quick, it's easy, and its the law. And that's about it. You might be interested in knowing that we recently honored Joe Frank, who works as a gardener for a city government in Louisiana. He was the first person whom we registered 8 years ago to pass through the 8-year window without there being a draft. We honored him and gave him a plaque. We had no idea who he was going to be or what his attitude might be, but when questioned, he was a public relations man's dream, because he said that he would have been delighted to have served.

Senator KERREY. What I am actually suggesting, and I know it costs money, so I shouldn't be pressing it.

Senator MIKULSKI. No; but they are doing that.

Mr. LESSEY. We've done some focus groups.

Senator KERREY. A professionally done survey of registrants' attitudes has——

Mr. LESSEY. We have done very little of that, and I again have to point out that we have so few funds that I cannot be like a Procter & Gamble, who would spend my whole budget on market research.

Senator MIKULSKI. Yes; but you don't have to spend that. We do that all the time. I know what a focus group costs; they don't cost a lot of money.

Senator KERREY. It's rather more than just signing up for some other bureaucratic thing, if you'll pardon—and I think you actually in your statement understand that as well. It may be the first contact that that 18-year-old has with their Nation. They have had contact prior to that with their State, city, or county and, again, typically have it in a way that is the law saying "Don't do this." "Don't speed." "Don't park your car."

I am just concerned, and it is a genuine concern that at their first contact with their Nation, that it be one that they understand and is one that they don't end up being hostile toward their country as a consequence of it. The signup percentages indicate that that is not the case. You don't get 99 percent and 96 percent signups and absence of organized effort against it without having——

Mr. LESSEY. Yes; and Senator, I don't see an organized resistance in the mail or elsewhere.

Senator MIKULSKI. Well, we could consider this discussion, and I am going to encourage you to do that, but I am going to have to wrap up the hearing.

We want to thank you for coming to testify. This has been very informative. I think you and Senator Kerrey might want to continue your conversation on this.

Mr. LESSEY. I would be delighted.

Senator MIKULSKI. We would want to follow up on Senator Kerrey's suggestion, this monitoring of opinion, because we do think it is important. Also I think again I will come back to the health delivery, anticipate opposition out of confusion and misunderstanding. And if we could ask you to do that while you're doing a very fine job, it would be most appreciate.

SUBMITTED QUESTIONS

[The following questions were not asked at the hearing but were submitted to the agency for response for the record:]

QUESTIONS SUBMITTED BY SENATOR MIKULSKI

ON-TIME REGISTRATION OF 18-YEAR-OLDS

Question. What percentage of 18-year-olds are currently registering within the statutory requirement of 30 days of their 18th birthday? (Historical avg: 56%)

Answer. As of the end of calendar year 1988, approximately 58.7 percent of the men turning 18 registered on time. This is an improvement over the end of calendar year 1987 on-time registration rate of approximately 55.3 percent. However, about 80 percent of the draft-eligible men register during the calendar year in which they turn 18. About a year later, the compliance rate normally increases to 90 percent. Within 2 years, when a year of birth group reaches 20 years of age and is in first priority for a possible draft, the registration compliance figure has usually approached 98 percent.

DIRECT-MAIL INCENTIVES

Question. In fiscal year 1988 you tested several direct mailing incentives as a part of registration improvement. One of the mailings was sent to households with a 90 percent probability of an 18-year-old living at the address. You reported that the return rate was only 3 percent, and as a result you will not use this approach.

How much did you spend on this effort and why do you think it was so unsuccessful?

Answer. Approximately $16,400 was spent to conduct the household mailing portion of our registration reminder mail-back program. This amount includes list rental, printing, and postage costs. The 3 percent response rate attributed to the household mailing was not considered unsuccessful; by direct mail marketing standards, this rate was successful. However, the results received from the mailout using the Department of Motor Vehicles driver's license lists (DMV) and the Department of Defense (DoD) recruiting list were much higher; 46 percent and 21 percent, respectively. Therefore, the DMV and DoD lists proved to be the most cost-effective use of the Agency's limited resources.

HEALTH CARE PERSONNEL DELIVERY SYSTEM

Question. In December 1987, Public Law 100–180 required Selective Service to develop plans for a health care personnel delivery system capable of providing the necessary critically skilled medical personnel to the Armed Forces in time of war. Your statement indicates that you plan to spend $360,000 in fiscal year 1990 for the technical documentation of the system. Your justifications indicate that these activities will be contracted out. Will additional funds (other than contract funds) be needed for fiscal year 1990?

Answer. Other than the resources needed for the technical documentation of the Health Care Personnel Delivery System (HCPDS), no additional funding will be required in fiscal year 1990.

Question. What criteria did you use to select your contractor and have you consulted with VA, DoD or the Department of Health and Human Services?

Answer. We have not identified a contractor because we have just completed development of the concept and the basic plans, policies, and procedures of the Health Care Personnel Delivery System (HCPDS). This development work was coordinated with the Department of Defense and the Department of Health and Human Resources and we expect to continue this cooperation. Later this fiscal year we will develop the requirements for documentation support. As development of the system continues, we intend to consult also with the Department of Veterans Affairs.

Question. Page 5 of your justifications indicates that the project will be divided into four phases, the first of which has been completed. How much did you spend on the first phase and how much will you spend on the remaining four phases?

Answer. The first phase of the development of the Health Care Personnel Delivery System (HCPDS) was completed in April 1988 within the Agency's authorized full time equivalent (FTE) ceiling. The remaining three phases will extend into fiscal year 1992. All systems development work will be accomplished with inhouse resources. Technical documentation will require contractual support estimated at $360,000. This amount has been requested for fiscal year 1990.

Question. What was the basis for enacting this particular provision of law? Is there a perceived shortage of health-care personnel to be available and if so what are the estimates and who devised them?

Answer. This provision of the law was enacted as a result of Department of Defense's projected wartime health care personnel shortfalls. Wartime manpower requirements exceed the number available in the total force. Estimates as of December 1987 of the Office of the Assistant Secretary of Defense for Health Affairs include health care personnel shortfalls of 6,034 physicians, 30,927 registered nurses, and 72,987 medical enlisted personnel for mobilization.

Questions Submitted by Senator Kerrey

TWO-YEAR BUDGET

Question. In accordance with the Department of Defense Authorization Act of 1986, you have submitted a two-year budget. What is your reaction to two-year budgeting—does it work or do you just project some incremental funding?

Answer. I support the concept of two-year budgeting even though Selective Service has not received two-year appropriations related to its first two-year budget request. Consequently, we've had to submit a budget amendment for the second year's appropriation resulting in little or no savings to the Agency. Ideally, two-year budgeting could save valuable staff time connected with formulating and justifying the budget, enhance longer term planning, and provide for a greater continuity of operations. However, I am somewhat skeptical of its value during periods of fiscal uncertainty because of the requirements of the Gramm-Rudman-Hollings law and the lack of adequate funding to meet the cost of pay raises. Across-the-board budget reductions and the requirement to absorb pay raises wreak havoc upon agencies. This is particularly true of the smaller agencies, such as the Selective Service System, which do not have sufficient funds to reprogram in order to meet these unanticipated requirements without a serious impairment to mission accomplishment. In a more stable fiscal environment, I believe the benefits of two-year budgeting would be great.

Question. Last year you also submitted a two-year budget; how does the fiscal year 1990 request you submitted last year compare with your fiscal year 1990 request submitted this year?

Answer. Last year, we did not submit a fiscal year 1990 request. We did, however, submit an amended fiscal year 1989 budget. The original fiscal year 1989 budget request was included in the President's fiscal year 1988 budget request. The original fiscal year 1989 request was for $26,959,000; the amended request for that year was $26,113,000. The pending fiscal year 1990 request is for $26,313,000, the same amount that was appropriated for fiscal year 1989.

COMPUTER SECURITY

Question. In your justification you indicated that all computer systems had been reviewed for conformance with the Computer Security Act of 1987 and that those containing sensitive information were identified by June 8, 1988. What types of information did you identify as "sensitive" and how are these protected?

Answer. Sensitive Information is defined in the Act as any information, the loss, misuse, or unauthorized access to or modification of which could adversely affect the national interest or the conduct of Federal programs, or the privacy to which individuals are entitled under section 552a of title 5, United States Code (the Privacy Act), but which has not been specifically authorized under criteria established by an Executive Order or an Act of Congress to be kept secret in the interest of national defense or foreign policy.

Security plans were developed which provide for the security of the nine systems we identified as containing sensitive information. The type of protection we use for these systems includes password protection, physical access controls, software security measures, and telecommunications security.

STATE DRIVER'S LICENSE LISTS

Question. State driver's license lists are a major means of cross-checking registration. Which states currently provide such lists? Why do other states not make such lists available?

Answer. All states, the District of Columbia, and the territories provide driver's license lists except Hawaii, Massachusetts and Montana. The States of Hawaii and Montana do not provide driver's license lists because of their Privacy Acts.

In 1987 and 1988, the Commonwealth of Massachusetts provided a driver's license list. In 1989, however, as a result of a court case, the Middlesex Superior Court has enjoined the Registry of Motor Vehicles from providing driver's license data to government agencies pending final disposition of the case on appeal.

STATE LAWS REQUIRING REGISTRATION

Question. Your justification indicates that about one-third of the states have passed legislation requiring registration as a condition for state employment. Which states have such laws?

Answer. Sixteen states have passed laws affecting state employment and education programs. Those states are: Arizona, Colorado, Delaware, Florida, Georgia, Illinois, Louisiana, Maine, Massachusetts, Mississippi, North Carolina, North Dakota, Ohio, Oklahoma, South Dakota, and Tennessee. Of these states, Arizona, Delaware, Florida, Louisiana, South Dakota, and Tennessee deny state employment to men ages 18 to 25 who are required to be registered and are not so registered. All sixteen states have some type of law requiring registration relating to state educational benefits.

INNER CITY COMPLIANCE EFFORTS

Question. The inner cities are one place where nonregistration has been a particular problem. How successful have recent efforts to target these areas with information and other compliance related activity been?

Answer. Selective Service registration improvement efforts are designed to focus on urban areas (including the inner city) having high numbers of nonregistrants. Recognizing that urban areas are home to a growing number of aliens, many of whom reside in the inner city, Selective Service, in cooperation with the Immigration and Naturalization Service, established a program to register eligible men applying for legalization status under the 1986 Immigration and Control Act. This effort has resulted in over 172,500 registrations, and recently opened the door for a ongoing effort whereby all lawfully admitted immigrant aliens and those applying for a change to their status will be reminded to register and given the opportunity to do so. Also, the Selective Service Job Training Partnership Act (JTPA) Registration Program is operated in cooperation with the Department of Labor and has registered more than 172,000 men; the program focuses, among other things, on retraining high school dropouts from the inner city.

A number of efforts are targeted on specific urban areas. As part of the Agency's registration reminder mail-back program, 90,000 households in urban areas having a large number of nonregistrants (Anaheim, San Diego, and Los Angeles, California and New York City and Nassau and Suffolk Counties, New York) were contacted in an effort to locate and register eligible 18 year old men. A Selective Service Registrar Program was established in high schools in New York City, Dallas/Ft. Worth and Houston, Texas, and Miami, Florida. In fiscal year 1989, we have received 26,000 high school drop out records from Baltimore, the District of Columbia and school districts in California and Wisconsin.

In fiscal year 1989, Selective Service will be initiating two new programs targeted to urban areas. The Job Corps Registration Program will be implemented in cooperation with the Department of Labor and will operate out of 107 sites nationwide. Like the JTPA Program, many of the men enrolled in the Job Corps Program are high school dropouts, and come from the inner cities. An Urban Area Registration Program targeted at Washington, D.C., Atlanta, Georgia, and San Antonio, Texas, is designed to focus awareness of the registration requirement in low registration, urban areas; engender community support for the registration requirement through church, civic, minority, educational, and political groups; and emphasize the importance to urban youth of the possible loss of certain Federal and state benefits if they fail to register.

NONREGISTRANT POPULATION—AWARENESS

Question. Of the nonregistrant population, what portion do you believe has failed to comply because of lack of information, ability or will and what portion do you believe has chosen not to comply?

Answer. As of the end of February 1989, our compliance rate among men 18 through 25 was 96.7 percent. Because we have been financially unable to conduct

any research to determine reasons for non-compliance, we do not know how many nonregistrants willfully do not comply, are unable to comply, or do not know about the registration requirement.

PROSECUTION OF NONREGISTRANTS

Question. Are you (or the Justice Department) currently pursuing any nonregistration cases?

Answer. The Department of Justice has the responsibility for prosecuting alleged violators of the Military Selective Service Act (50 U.S.C. App. 453 et seq. Since 1980 the Department of Justice has prosecuted 19 self-identified nonregistrants of whom 15 were convicted, and 4 registered before trial and the cases were dismissed.

The Department of Justice has 539,800 names of apparent violators of the registration requirement referred to them by Selective Service. As a result of those referrals, only one person has been prosecuted. He registered after indictment and arraignment. His case was dismissed in December, 1984. We know of no pending prosecution by the Department of Justice for failure to register.

NUMBER OF CONSCIENTIOUS OBJECTORS

Question. What portion of the registrants have indicated conscientious objection to military training and service?

Answer. There are no provisions to register as a conscientious objector. "Conscientious Objector" is a classification which can be determined only by a Local Board, as part of the legal process if Congress were to order inductions. Selective Service does occasionally receive inquiries from young men seeking information on conscientious objection, and this information is provided.

SELECTIVE SERVICE BOARDS MANPOWER

Question. Over 11,000 citizen volunteers serve on Selective Service Local, District Appeal and Civilian Review Boards. Are these boards fully filled at the moment? Do you have any manpower problems in filling these positions?

Answer. As of the end of February, boards were staffed as follows: 2,087 Local Boards, 90 percent filled; 95 District Appeal Boards, 98 percent filled; and 48 Civilian Review Boards were fully staffed.

The Selective Service System has had considerable success in maintaining these boards at a high average staffing rate. In light of the large number of volunteers required and the sensitive and often controversial, nature of a possible return to conscription, the overall rate takes on even greater significance. An additional time factor in staffing the Local Boards, by far the largest contingent, is the required recommendation by the Governor of the state for each board member prior to appointment. We at Selective Service are very pleased with the response of the Governors and particularly with the response of our citizens. Successful staffing of boards is a manifestation of citizen patriotism and desire to support the national defense.

SELECTIVE SERVICE ACTIVITIES IN NEBRASKA

Question. Would you please provide a profile of your activities in Nebraska. What boards and offices do you have? What are the registration figures? What special programs or activities are you engaged in?

Answer. We have established six Area Offices in Nebraska which will administer 24 local boards. There is one District Appeal Board, and a State Headquarters located in Lincoln. Mobilization exercises were conducted for each Area Office location and the State Headquarters during 1988. Board member training was also conducted throughout the state during the year.

As of the end of calendar year 1988, the Nebraska registration statistics were as follows:

TOTAL REGISTRATIONS

	Nebraska	National	Percent of the national total
18 Year Olds	10,787	1,438,000	.75
19 Year Olds	11,254	1,763,000	.64

Selective Service is engaged in a number of special programs and activities in Nebraska designed to improve registration. A movie theater registration awareness initiative has been implemented on an ongoing basis in Nebraska. A 35mm slide containing a registration reminder message is now routinely shown in Lincoln and Omaha movie theaters. The estimated viewing audience is 88,000 to 90,000 each year. Other activities include a program to contact American Indian tribal leaders in the state to provide registration information and promotional materials to the tribal councils; a program to contact Federal, state, and local probation officials to provide information and background on registration and provide promotional materials; a registrar program with the Nebraska Department of Corrections to register young men being released from the out-processing locations in Hastings, Lincoln, and Omaha; and a registrar program with Job Training Partnership Act (JTPA) offices in the state which includes 38 appointed registrars and has resulted in over 1,100 registrations since the program was implemented in 1984.

Questions Submitted by Senator Grassley

EFFECTS OF UNPAID DRILLS FOR RESERVE FORCES OFFICERS

Question. Last year about this time you made a decision to notify Reserve Forces Officers that they would not be paid for August and September participation in their Selective Service assignments. I recognize the need for budget constraints, but I am concerned about the possible impact on morale and personal hardship that might be incurred by some of these officers.

Did you consider this potential impact? What alternative did you consider before you took this action? Did you consider freezing new appointments to fill vacancies?

Answer. The decision to reduce the number of paid drills was made only after a thorough review and analysis of other available alternatives. The Agency was faced with a $1,061,000 reduction because of the Omnibus Budget Reconciliation Act of 1987. Selective Service's budget is comprised largely (over 60 percent) of personnel related expenses, both civilian and military; and, the vast majority of the other expenses are fixed in nature. In order for the Agency to take such a large reduction, personnel related reductions had to be considered. Among the many options considered were a freeze of military and civilian hiring, a furlough of civilian employees, a cancellation of all or part of annual training, the elimination of the third compliance letter, and a curtailment of registration improvement activities. The overriding criterion in deciding which items to reduce or eliminate was the effect on mobilization readiness. The items which were reduced, in addition to a reduction of six drills out of 48 drills, included a reduction in overtime and awards for civilian employees; a reduction in special tours for Reserve Forces Officers; a reduction in staff travel; the conversion of continuation training for board members not involved in a mobilization exercise to self-study; the elimination of the business reply envelope in the compliance program; the reduction in telecommunication expenses; a reduction in printing expenses; a reduction in ADP contractor support for data entry at the Data Management Center; and, the reduction of supply purchases.

EFFECTS ON NOT REIMBURSING VOLUNTEER BOARD MEMBERS FOR TRAVEL

Question. Last spring you decided not to reimburse local volunteer board members for transportation expense to attend the annual board member refresher training sessions. As you may know, I have been a major proponent over the years of volunteerism, and sponsored a resolution during the 100th Congress encouraging volunteerism. I am concerned what morale impact denying transportation expenses might have on these volunteers.

What alternatives did you consider that might not have such an adverse impact on future attendance at training sessions by volunteer board members?

Answer. To accomplish training within minimum resources, we mailed training packages to board members for self-study last year for those board members not participating in an Agency mobilization exercise (MOBEX). All board members attending the 445 MOBEXs were authorized reimbursement for travel expenses.Thus, no transportation expense reimbursements were denied. Any on-site training without travel reimbursement was optional for all board members. There was no evidence of lessening of morale.

REGIONAL TRAINING SESSIONS

Question. Did you consider canceling some of the regional training sessions at resort locations?

Answer. No. All locations of training sessions at commercial establishments were purposely planned during off-season time at very reasonable, reduced rates. Commercial sites are an option only after it is determined that military facilities are not available.

Question. Did you consider making some of those regional training sessions shorter, or did you consider sending fewer headquarters staff to attend?

Answer. Only those Headquarters personnel scheduled for presentations on the agenda attended each session and remained for the shortest time possible. Our Regions made maximum use of the time scheduled for each conference.

Question. Did you consider scheduling the regional conferences at less costly sites?

Answer. The cost of transportation between the required points of travel as well as the availability of military facilities are always primary considerations. The conference centers were selected because of cost savings based on airfares, off-season rates, and availability of required facilities.

COSTS OF MOVING REGION DIRECTORS

Question. You have moved Regional Directors from Georgia to California and from Illinois to Texas. What were the costs of these moves? Were they necessary in light of your budget constraints?

Answer. The exact costs of the moves for two Region Directors are unknown. Costs are paid directly by the parent military services; the Selective Service System reimburses the services for relocation expenses (PCS moves) at a standard composite military rate. This standard rate for PCS moves is included as part of the total reimbursement paid by Selective Service on a monthly basis for all active duty officers, whether or not the officer moves during the year, or during the tour of duty.

In answer to the second part of this question, it should be kept in mind that even in times of tight budget constraints, decisions to relocate staff must be made. Among the most pressing matters during my tenure as Director has been the staffing of the Region Headquarters with the best possible leaders. While the timing of the vacancies did not help our budgetary problems, the trade-off of filling these key jobs versus the savings was still a bargain in terms of the longer view of our mission accomplishment.

Region V, with Headquarters in San Francisco, is one of our largest Regions and is among the lowest in compliance with the registration requirement. These challenges are further complicated by the fact that the Region is comprised of geographically dispersed states. We chose for Region V, Colonel F.H. Russell, the most senior, most experienced, and in fact the "dean" of our Selective Service Region Directors, to head this Region.

Over the past 5 to 7 years, Region IV, with Headquarters in Dallas, Texas, has experienced numerous changes in leadership. As a result, general management of the Region has suffered. Colonel John Haralson, whose Selective Service experience is exceeded only by that of Colonel Russell, was assigned to this Region when the previous Region Director left the Agency.

NECESSITY OF AGENCY HAVING BOTH A DEPUTY AND EXECUTIVE DIRECTOR

Question. You have both a Deputy and Executive Director on your Staff. Would you describe the duties of both, and the extent they are utilized?

Answer. There is a long tradition and nearly universal practice of having a "political" deputy. Every cabinet department and virtually every other government agency has a deputy or under secretary to serve as the second ranking political officer. This is true also of Selective Service. The incumbent serves as my principal advisor in formulating and implementing agency policies and programs and in the day to day management of the system. The value of a deputy has been especially underscored at Selective Service. Prior to my arrival, on two occasions, deputies were appointed by the President to serve as Acting Director. This was over a 21 month period.

The Executive Director has responsibility under the Director and Deputy Director for daily operations and for internal management and coordination. One of my first priorities as Director was to improve internal management and control throughout the Agency. My assessment was that, while the Agency had made considerable progress toward specific goals such as registration and compliance efforts, internal processes could be improved and made more efficient; documentation and audit

trails could be enhanced; and a more fully coordinated internal approach generally would assure progress toward all goals. The internal measures became particularly critical in light of ever decreasing fiscal resources. The Executive Director as the senior career officer has been responsible for working with senior staff and ensuring these objectives are met.

EFFECT OF DELAY IN ISSUING ANNUAL TRAINING ORDERS

Question. This year you have frozen the issuance of orders for annual training until just this last week. Generally, these would have been issued months ago. What impact will this have on the ability of your people to accomplish their mission?

Answer. No impact is projected. All Reserve Forces Officers will have the opportunity to attend annual training.

EFFECTIVENESS OF PUBLIC AFFAIRS MATERIALS

Question. In the past, the Service has spent large sums for promotional contracts, posters and materials. Have you taken surveys of recipients of these packets of materials, for instance—high schools—to determine if all or just some of the materials are being used? In other words, it is my understanding that often only part of the materials are used. This might be an area to save some money.

Answer. We have made it a practice to include a business reply card in every high school kit. From these cards we have learned the amounts and types of materials that the schools like to receive. Over the years our kits have been tailored to fit the needs of the schools. We realize that we cannot please every school and some materials will go unused.

REASON FOR DELAY IN APPOINTING LOCAL BOARD MEMBERS

Question. Processing time for appointment of local volunteer board members is taking 30–45 days, and it is my understanding it used to take about a week. Why is it taking so long? Do you rely on Governor recommendations? It may be helpful to describe the process by which Local Board Members are appointed.

Answer. The Military Selective Service Act (MSSA) requires that local board members be recommended by the Governors of their respective states. The Agency generally accepts Governors' recommendations so long as the nominee meets the requirements for appointment mandated in the MSSA. Upon recommendation by the Governor, the appropriate Region Headquarters prepares an appointment letter and certificate for the Director's signature. After signature, these are returned to the appointee through the Region Headquarters and the appointment is final on the date of the letter. Processing time, after the Governors' recommendation, currently averages five to seven days at the region and about the same amount of time at National Headquarters, for a total of approximately 21 working days counting mail time. It is important to note that a potential appointee may be asked to complete an application and be interviewed several weeks before the final recommendation is made. This lead time may account for the perception of a lengthy appointment process.

I am sure you appreciate the need for a careful review of all forms at all stages of this process. Incorrect information or processing could lead to an erroneous appointment and an illegally constituted board, with a final result of decreased mobilization readiness.

QUESTIONS SUBMITTED BY SENATOR NICKLES

FUNDING OF ANNUAL TRAINING FOR RESERVE OFFICERS

Question. I understand that Selective Service is currently not planning to fund annual training for its reserve officers in FY89. Could you please tell the subcommittee what your plans are and if these reports are true, whether Selective Service reserve officers will be asked to perform annual training without pay, or if they are excused from annual training, what impacts the lack of training may have on Selective Service's mobilization readiness or promotion possibilities for your reserve officers?

Answer. We are funding annual training; therefore, no impact is expected on mobilization readiness or officer promotion possibilities.

Question. How much will it cost to fund annual training for all Selective Service reserve officers?

Answer. In fiscal year 1989, it is estimated that $1.9 million will be required for annual training expenses.

SUBCOMMITTEE RECESS

Senator MIKULSKI. In the meantime, I am going to say that this subcommittee will stand in recess until Monday, March 13, when we are going to hear things like the Neighborhood Reinvestment Corporation, the National Credit Union, which we hope doesn't get into the mess that the Federal Home Loan Bank Board, and the National Institute of Building Science.

[Whereupon, at 3:15 p.m., Monday, March 6, the subcommittee was recessed, to reconvene at 1:30 p.m. Monday, March 13.]

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VA, HUD, AND INDEPENDENT AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1990

MONDAY, MARCH 13, 1989

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 1:30 p.m. in room SD–138, Dirksen Senate Office Building, Hon. Barbara A. Mikulski (chairman) presiding.

Present: Senators Mikulski, Kerrey, and Grassley.

NEIGHBORHOOD REINVESTMENT CORPORATION

STATEMENT OF WILLIAM A. WHITESIDE, EXECUTIVE DIRECTOR

ACCOMPANIED BY:

ROY DAVIS, DIRECTOR OF FINANCE AND MANAGEMENT INFORMATION SYSTEMS

GEORGE KNIGHT, DEPUTY EXECUTIVE DIRECTOR/TREASURER

CAROL McCABE, GENERAL COUNSEL/SECRETARY

NATHAN NICHOLS, DIRECTOR OF FIELD OPERATIONS

OPENING REMARKS OF SENATOR MIKULSKI

Senator MIKULSKI. The subcommittee will come to order. Today the subcommittee meets to receive testimony from three of the agencies within its jurisdiction: the Neighborhood Reinvestment Corporation, the National Institute of Building Sciences, and the National Credit Union Administration.

We are pleased to welcome our first witness, Mr. William Whiteside, the Executive Director of the Neighborhood Reinvestment Corporation. The Neighborhood Reinvestment Corporation was chartered by the Congress in 1978 to help generate affordable housing for low- and moderate-income families in neighborhoods across America.

Neighborhood Reinvestment can be proud of its accomplishments through its neighborhood-based partnership programs: Neighborhood Housing Services; apartment improvement programs; and mutual housing associations. This past Saturday I had the chance to visit Neighborhood Reinvestment's first mutual housing association in the country. It's located in my own hometown of Baltimore. And I must say, Mr. Whiteside, I was very much impressed with the quality of units that mutual housing has built, but I was struck by the strong sense of community that existed there.

BUDGET REQUEST

For fiscal year 1990, the administration has requested a total of $21,260,000 for Neighborhood Reinvestment Corporation, an increase of 8 percent over last year. I am concerned, however, they are asking for only a $14.5 million direct appropriation for you, while getting the remaining $6.7 million through abolishing the community development revolving fund in another agency.

I look forward to reviewing these proposals with you and the National Credit Unit Administration which controls that revolving fund.

Senator Kerrey, do you have any comments that you'd like to make, or opening statement?

Senator KERREY. No; I have no opening statement.

Senator MIKULSKI. Mr. Whiteside, why don't you proceed with your testimony, and perhaps you would like to introduce those other people who are with you today. We will, of course, proceed under the 10-minute rule.

Mr. WHITESIDE. Thank you, Madam Chair.

INTRODUCTION OF ASSOCIATES

I'd like to begin by introducing my colleagues. From your left, Roy Davis, our Director of Finance and Management Information Systems; George Knight, our Deputy Executive Director and Treasurer; Carol McCabe, our General Counsel and Secretary; and Nathan Nichols, our Director of Field Operations.

You have before you a fairly thick document of our budget justification and a prepared statement that I submitted before the meeting. I don't want to duplicate the materials you've had a chance to read there, so let me just take a moment to sketch a little of the history of this unusual Corporation.

OPENING STATEMENT

Senator MIKULSKI. First, let me ask unanimous consent that your entire statement be included in the record, and then have you proceed for no more than 10 minutes.

Mr. WHITESIDE. Thank you. This effort began as an office of the Federal Home Loan Bank Board. We were working in 1970 to provide tools to the savings and loan industry so they could continue in a very difficult time to serve the urban neighborhoods. As you might recall, in 1970 there were predictions that our urban centers were going to decay away entirely, and this was something of an uphill battle.

The savings and loan industry was the sole base of this effort during the first several years. Later, through the informal assistance of the FDIC, the Comptroller of the Currency, and the Federal Reserve Board, we were able to involve commercial banks. And after a number of years of this very small pilot effort in the Federal Home Loan Bank Board, the Urban Reinvestment Task Force was formed, where HUD came in as a major partner and, over a 5-year period, provided a $20 million demonstration grant.

The task force itself was made up of the Chairman of the Federal Home Loan Bank Board, a Governor of the Federal Reserve, the

Comptroller of the Currency, the Chairman of the FDIC, and the Chairman of the National Credit Union Administration and the Secretary of HUD. This group was carried forward into the Neighborhood Reinvestment Corporation as its Board of Directors.

As you mentioned, the legislation was passed to create this entity in 1978. We began operation in 1979. And, today, partnerships of neighborhood residents and financial institutions and local governments are spread throughout 43 States, the District of Columbia, and the Commonwealth of Puerto Rico as a result of this work. Three million people live in the 246 neighborhoods actively being worked on in this network and the 71 neighborhoods that have become self-reliant.

Reinvestment is projected by the end of this fiscal year to total $6.3 billion in these neighborhoods, and that has been leveraged by $180 million in direct Federal appropriations to this Corporation, again through fiscal year 1989. That's a ratio of 35:1 on your appropriation dollars.

The neighborhoods served include a median household income of $12,000; 58 percent of the occupants of these neighborhoods are minority; 42 percent of the properties are home ownership occupied. And a recent sample of revolving loan fund loans showed that 47 percent of the 2,000 loans in the sample had been made to very low-income families with a median income of $6,900; 31 percent had been made to low-income families with a median income of $14,000; and 22 percent had been made to moderate and middle-income families with a median income of $23,000.

NHS REVOLVING LOAN FUND

These revolving loan funds in 246 neighborhoods now total $198 million across the country and they've been leveraged by another $35 million through a unique secondary market which is selling securities to the insurance industry, secured by these revolving loan fund loans. By definition, you can't get a revolving loan fund loan if you're creditworthy, but it turns out that these securities have been excellent from the point of view of risk, although the insurance industry is making them at several points below the market rate as a social investment.

I mentioned the total amount in the revolving loan fund of $198 million. To give you an idea of the importance of the private part of this public/private partnership, $2.5 billion of the reinvestment figure that I cited a moment ago was in conventional loans. These were conventional loans made in neighborhoods where it was very difficult to get lending before the program began.

I would like to touch on an interesting opportunity we have right now in this very varied economic picture in the United States, with some very heated housing economies and some very depressed housing economies. In the depressed housing economies we are able to bring people into home ownership who were formerly tenants, at incomes of $15,000 and below. It's a marvelous opportunity for home ownership that is an almost forgotten dream in some of the other economies.

FORECLOSED PROPERTIES

In the problem areas, I'd like to just mention that foreclosures are enormous problems in our neighborhoods. The problem of foreclosure to the family, of course, is they lose their home, they lose their equity, they lose their credit rating, and in some cases they actually become homeless.

Another problem of foreclosures is that the vacant building in the neighborhood becomes a blighting influence, and we have some neighborhoods that have hundreds of vacant properties that are working against the stability that NHS's are designed to create.

A couple of other problem areas. We desperately need a secondary market resource in this country for multifamily housing that is not top investment grade. These are not risky loans. They're not loans where the owner is unwilling or unable to make the payment, but they're not the top investment grade, and it's very difficult to get funds from a secondary market into the financial institution that's made the loans. Therefore, the financial institutions are very cautious about making the loans because of the tight liquidity situation they're in these days.

Another problem area I'd like to mention is that there are innumerable foreclosed properties available around the country that have been taken back by Fannie Mae, by HUD, by the Veterans Administration, by savings and loans, by the FDIC and FSLIC. But to acquire these properties requires some—what they call in the development community—front money, some risk capital to pay some of the up-front costs before you have the whole deal put together. We have been unable to find risk capital. Risk capital normally commands a high return and, of course, this needs to be at a reasonable return if it's going to be utilized by a nonprofit organization to provide housing for low- and moderate-income families.

DRUG-RELATED CRIME

And, finally, drug-related crime is a growing cancer in the neighborhoods we serve, as it is in other neighborhoods throughout the country. We desperately need to deal with that.

Finally, I'll come back, Madam Chair, to the organization you mentioned visiting in Baltimore, the Mutual Housing Association. I think this is the greatest discovery for housing in the United States since neighborhood housing services were discovered in 1968.

Thank you very much.

Senator MIKULSKI. Thank you.

[The statement follows:]

STATEMENT OF WILLIAM A. WHITESIDE

Madame Chair, and members of the Committee, I appreciate the opportunity to appear once again before you and report on the activities of the Neighborhood Reinvestment Corporation.

Let me begin by thanking the Committee for its past support and for approving our fiscal year 1989 funding level of $19,494,000.

At a time when the challenge to low- to moderate-income Americans of securing affordable housing seems virtually insurmountable, the Neighborhood Reinvestment Corporation is continuing to maximize the impact of the funds at our disposal. NeighborWorks partnerships (including Neighborhood Housing Services, Apartment Improvement Programs and Mutual Housing Associations) are currently active in 246 neighborhoods located in 139 cities in 43 states, the District of Columbia and the

Commonwealth of Puerto Rico. In addition, 71 neighborhoods housing 400,000 Americans have achieved a healthy, substantially self-reliant state.

We are continuing to provide assistance to strengthen the skills of NeighborWorks organizations and continue to provide tools to advance neighborhood self-reliance. As NHS programs become more experienced in the delivery of services and grow into strong, lasting institutions, many develop ambitious strategies to meet previously overwhelming challenges. We have assisted many NHSs in adding major components to their programs in such areas as commercial revitalization; economic development; single and multifamily housing development; and low- and moderate-income rentals.

To respond effectively, within our resource limitations, the Corporation plans to achieve the goals detailed on page 16 of the fiscal year 1990 Budget Justification. NHS neighborhoods are increasingly a mix of rental and homeownership. In fact, 58 percent of the dwelling units in NHS neighborhoods are rental units. Our Apartment Improvement Program successfully addresses the large, unsubsidized, privately-owned multifamily unit buildings, but within NHS neighborhoods the smaller buildings need to be addressed to achieve overall neighborhood health. In response to need, Neighborhood Reinvestment is currently focusing on developing multifamily/rental strategies designed for neighborhoods heavily impacted by substandard rental buildings. During fiscal year 1989, Neighborhood Reinvestment will work with 32 NeighborWorks organizations to develop local strategies for rehabilitating or constructing rental units affordable to lower income households in multifamily buildings, duplexes, large old homes reconfigured into several apartments, apartments over commercial space and adaptive re-use of non-residential structures. These strategies will also involve development of financing techniques to address the practical difficulties of selling loans made on such properties to traditional secondary markets. Loans, especially purchase/rehab loans on buildings of less than twenty units, are not generally purchased by secondary markets, thus affecting the willingness of financial institutions to make such loans.

The majority of NHS neighborhoods still have good opportunities for families earning between $13,000–$19,000 annually to buy and repair houses. The East Side of Saginaw is a prime example of such opportunity. What is needed in such situations is not simply a subsidy but also an organization actively working to identify properties and families, with mechanisms to reduce down payments and settlement costs and to assure good repairs. During fiscal year 1989, Neighborhood Reinvestment will work with 28 NHSs in developing strategies involving homeownership promotion, sales facilitation, and tenant conversion to homeownership.

A neighborhood is the sum of its parts. To achieve health of the whole, all parts need to be addressed. To date, nearly thirty NHSs have undertaken, with Neighborhood Reinvestment's assistance, commercial revitalization or economic development strategies. Noteworthy, is that over $121 million of local public and private reinvestment has been leveraged by the seventeen mature programs. Although each strategy is uniquely tailored to the needs and resources of the NHS neighborhood, virtually all include business development, job training, rehabilitation, new construction or adaptive re-use, and aggressive marketing, promotional and management activities. Neighborhood Reinvestment will, during fiscal year 1989, assist 17 NHSs with commercial and economic development strategies. In addition, the Corporation will undertake four pilot demonstrations of what we are calling Neighborhood Enterprise Centers. The Neighborhood Enterprise Center is a flexible, systematic approach to encourage entrepreneurial activity among disadvantaged populations by facilitating new micro-enterprise formation and facilitating modest, sustainable growth over regular increments. The underlying philosophy attempts to establish a supportive infrastructure which is similar to the extended family cooperation which has enabled many recent immigrant groups to own businesses as a path to upward mobility.

Neighborhood Reinvestment's Housing Development Strategies program addresses the shortage of affordable, quality housing available to low- and moderate-income families in NHS neighborhoods, as well as the blighting effect of vacant lots and substandard properties. One strategy whereby this is achieved is the Owner Built Housing program where each family invests 40 labor hours per week for 9 months to 1 year. This "sweat equity" investment enables the family to assume a conventionally-financed mortgage substantially lower than would be the case in purchasing a contractor-built home. Other strategies include small urban subdivision developments, infill housing on scattered, vacant lots, and conversion of non-residential structures into housing units. During fiscal year 1989, the Corporation will assist 29 NeighborWorks organizations with strategies to provide affordable housing through new construction or substantial rehabilitation.

While the Corporation's main focus is on these specific "meat and potato" goals, staff attention is also focused on the following challenging areas:

- strengthening neighborhoods' social fabric, including combating drug-related crime;
- strengthening NeighborWorks organizations' capacity;
- foreclosure intervention;
- assisting NeighborWorks organizations in obtaining foreclosed properties.

I would like to take this opportunity to comment briefly on work being accomplished in these areas.

In many NeighborWorks neighborhoods, the "frayed social fabric" is part of the challenge to their becoming healthy, self-reliant neighborhoods. Over the last 4 years, research efforts of the Corporation, and through testing of successful project models, Neighborhood Reinvestment has expanded its level of activity in what we refer to as social intervention strategies.

One successful program developed by the Salt Lake City NHS designed to involve youth with an alternative to subculture delinquent behavior through employment opportunities is being replicated in three additional NeighborWorks cities. The program was initiated in 1982 as part of the NHS expansion into Salt Lake City's westside neighborhood because residents, particularly the elderly in the community, felt increasingly threatened by the unemployed youth in the neighborhood. With technical assistance and grant funds from Neighborhood Reinvestment, the NHS developed a strategy which would provide neighborhood youth with job training constructing homes on neighborhood vacant lots, and incentives to complete high school while at the same time furthering the NHS overall goals.

The program not only impacts the lives of the involved youth, but it also contributes to the overall goal of complete neighborhood health and revitalization. The Salt Lake City NHS has documented the success of the program in terms of a decreased level of delinquent activity in the community; reduced tension between the elderly and youth; reduced levels of alcohol and drug abuse; and, production of housing affordable to low- and moderate-income residents.

Although training youth in construction skills is a good "fit" with NHS capacity, more often, social intervention programs such as those addressing educational needs, teen-age pregnancy, at-risk youth, employment preparation skills, and operating social service programs for the homeless fall outside NHS staff strengths. Neighborhood Reinvestment encourages neighborhood leaders involved with NHS to identify local social agencies or community organizations with the capacity to administer such programs.

For example, Neighborhood Reinvestment has identified a program designed to actively involve the parents of neighborhood children in the education of their children by participating in an after-school, academic reinforcement program—"Parents as Partners". The model program is administered in Kansas City, Missouri by the Guadalupe Center, Inc., using a structured curriculum and training packages with which the Center has developed a core of parents who can effectively supervise their children's progress in school, and advocate for the educational needs of the neighborhood children in the classrooms, and in the community at large.

The program is currently being replicated in 11 additional communities through the National Council of La Raza's local affiliates. To date, this has been a very successful example of the role a neighborhood-based organization can play in improving the quality of education that children receive. In fact, as a measurement of success, the Kansas City group's efforts ensured that a magnet school was located in the neighborhood.

In other situations, a broad coalition is in order. For example, the Boyle Heights NHS in Los Angeles realized that their neighborhood was facing a growing drug problem and, in turn, the increased drug activity was generating increased thefts and vandalism as well as gang-related graffiti. Directly damaging to the NHS efforts was the fact that contractors refused to work in certain sections of the NHS target area.

The NHS formed an Ad Hoc Committee of its Board of Directors which joined with other community groups in the neighborhood. All the groups and agencies servicing the area, including the local police department and local churches, signed an agreement that together they would take responsibility for dealing with the drug problem.

The result: a concerted, organized neighborhood-based effort to repair the physical and social fabric of the community. windshield surveys for drug activity are conducted by residents with assistance from NHS staff, and residents daily patrol their immediate neighborhoods. The community groups meet monthly to discuss current or potential problems, update information, and formulate strategies.

Another example of an organized resident effort is the "Westside Concerned Citizens" group formed when several members of the Resident Committee of the Reading, Pennsylvania NHS decided it was time to take an active role in the battle against the drug market cancer that was destroying the values of the young people in the neighborhood. Of particular concern was the flagrant activity of dealers (sometimes as many as twenty at one time) on a corner only one block from the local elementary school.

Working cooperatively with the local police, they organized an effective crime watch program through which the license plate numbers of dealers and addresses where drug activity was observed were reported to the police. In the last year, this has resulted in a significant number of arrests and the confiscation of over $100,000 in drugs in the area. Also, local police report a 50 percent reduction in drug activity in the neighborhood, and they have been joined in their efforts by state and county vice officers. The westside Concerned Citizen group was also key in securing passage of state legislation which mandates a minimum four-year sentence for selling drugs within 1,000 yards of school property.

During fiscal year 1989, Neighborhood Reinvestment will be working with five to ten communities—to be selected—to develop pilot efforts focusing on the strengthening of resident organization and leadership as a specific strategy in combating drug-related crime.

Neighborhood Reinvestment regularly assists NeighborWorks organizations in strengthening capacity by focusing on resource development; strengthening boards and committees; staff recruitment; building staff skills in management, computer usage, rehab and housing development. However, given the increasing environmental challenges, we need to redouble our efforts if the NeighborWorks network is to live up to its potential.

As an example, increased capacity would allow many NeighborWorks organizations to address the problem of foreclosure increasingly prevalent in many areas of the country. Foreclosures on one- to four-unit buildings have dramatically increased over the last 3 years. In 1987, the Veterans Administration reported the highest losses ever, totaling more than $465 million. Similarly, FHA has experienced serious delinquency and foreclosure rates, and conventional loans recorded increasing foreclosure rates during 1987 and 1988. The states recording the highest percentage of foreclosures are: Texas, Wyoming, New Mexico, Colorado, Oklahoma and Alaska. According to FSLIC data, in 1987 the number of foreclosed mortgages compared with the number held in these states ranged from 7.5 percent to 15.8 percent.

Experiences in the NHS neighborhoods reflect the devastating effects of foreclosure. Two of the three NHS neighborhoods in Denver are experiencing vacancies of 15 to 30 percent as the result of foreclosures. One neighborhood, Highland, had been approaching self-reliance until the recent spate of foreclosures. The NHS must now resume full services to the Highland neighborhood in an effort to stem the problem. Approximately thirty percent of the homes in the Casper, Wyoming NHS neighborhood are vacant. In Anchorage, Alaska, vacancies have skyrocketed from 4.8 percent in 1984 to 16.2 percent in 1988. A new member of the NeighborWorks network, the Fort Wayne, Indiana NHS is challenged by a neighborhood with over 700 vacant houses.

NHS programs in areas being severely affected desperately need immediate assistance to prevent this problem from overwhelming their neighborhoods. Neighborhood Reinvestment is currently assessing the Colorado Springs, Colorado NHS as a pilot site in our continuing effort to design a foreclosure intervention model. Goals for fiscal year 1989 include the development of counseling agreements with mortgage holders, development of local fund-raising strategies, and setting up of counselling systems.

The emerging crisis areas of drug-related crime and high foreclosure rates for many of the 246 neighborhoods we are assisting require resources beyond those currently available to the Corporation. We are earnestly seeking private and public sector assistance to stem these neighborhood hemorrhages.

The presence of large numbers of vacant buildings has an extremely adverse impact on a neighborhood. Several NHS programs have identified acquisition of these properties as the best strategy to deal with them. Neighborhood Reinvestment is currently working with NeighborWorks programs in Austin, Dallas, Houston and Chicago to facilitate their acquisition of designated foreclosed properties—both one to four family and multifamily.

Allow me to put some texture to the multifamily problem—and potential. On the border of one of the Dallas NHS neighborhoods is a 242 unit building, fenced and vacant, offered for $330,000. Anxious to prevent this building from negatively impacting the NHS neighborhood but not having the necessary "front money" to ac-

quire and secure the property, the Dallas NHS asked for Neighborhood Reinvestment's assistance. I saw this property just a month after the last tenants moved out. The holding agency had fenced the perimeter of the lot in an effort to deter vandals and squatters, but to no avail. The buildings had already become a shelter for drug users and dealers, and as we stood outside the lot the clink of hammers and chisels could be heard as the "midnight plumbers" removed the aluminum and the copper pipes. Every day it stood vacant, the value of the property decreased while the rehab costs increased.

Had the NHS been able to acquire this property—early—an after-rehab cost is estimated at less than $20,000 per unit. With a minimal city or state subsidy contribution and a conventional loan these units could have become a continuing low and moderate income affordable housing resource.

NHSs do not have the needed capital, and traditional sources available to NHSs are not ready to lend the front end risk capital. In addition to assisting the Austin, Dallas, Chicago, and Houston programs in securing properties, the Corporation is also identifying properties from a national list of foreclosed properties and alerting the local NeighborWorks organization. It is our goal to develop a mechanism which could provide the capital and credit enhancement needed to assist programs in the acquisition of foreclosed properties as a low-cost way to provide housing affordable to lower income families, thus far we have not been successful in locating the resources for such a mechanism.

Throughout the Southwest foreclosed properties can be obtained from commercial banks and thrifts, FADA, FSLIC, FDIC and HUD at prices low enough to provide low- and moderate-income housing at a fraction of the subsidy cost of our traditional housing programs. Neighborhood Reinvestment is seeking ways to—as Senator Barbara Mikulski put it: "make lemonade out of those lemons!"

To date, seven Mutual Housing Associations are incorporated and operational—Austin, Texas; Baltimore, Maryland; Hartford, Connecticut; Ithaca, New York; Lower East Side of Manhattan, New York; Sacramento, California; Stamford, Connecticut. During fiscal year 1989, the Corporation will provide organizational assistance to four additional Mutual Housing Associations currently in the assessment stage. The first acquisitions by Mutual Housing Associations in Austin and Sacramento are foreclosed S&L properties and HUD properties, respectively. I am also pleased to report to you that the strong partnership created in some cities is generating more resources from the private sector and state and local governments than we had anticipated.

In Connecticut, almost 2 years ago, the State passed legislation providing funding—grants and loans—to limited equity cooperatives and Mutual Housing Associations. The Mutual Housing Association of Greater Hartford also has tremendous support from the private sector particularly the insurance companies based in that city. These companies see nutual housing as an aid in attracting needed lower-salaried employees who are prohibited by high housing costs from working in the metropolitan area.

The Corporation's fiscal year 1990 funding request is $21,260,000 which represents an increase of 9.1 percent from the fiscal year 1989 level of $19,494,000. This increase in funds is necessary to continue to provide services equivalent to those offered in fiscal year 1989 and to fund a fiscal year 1990 National Leadership Conference. Our periodic leadership conferences provide an opportunity for intensive training, information dissemination and leadership building for NeighborWorks programs. Our last National Leadership Conference, held in August 1987 in New Orleans, provided an opportunity for nearly 1,300 participants to enroll in intensive sessions focused on areas such as "Neighborhood Leadership Development"; "Small Enterprise Development for women and Minorities"; "Delinquency and Default Counselling"; "Strategies to Save Affordable Rental Housing"; and, "Neighborhood Business Development Strategies." Training sessions address issues relating to both a neighborhood's physical environment and its social fabric in moving a neighborhood from decline to healthy self reliance, as well as ongoing processes of leadership development.

Thank you again for the opportunity to present this statement. I would be pleased to answer any questions.

FORECLOSURE INTERVENTION

Senator MIKULSKI. As I said, we have many things that we're doing today, and I am going to follow the 10-minute rules with my questions and we'll proceed that way.

I would like to move to the foreclosure intervention strategies. This, of course, is a very serious problem facing this country and I know the committee is concerned with the increasing number of VA and FHA foreclosures in certain sectors of the country.

Could you tell us, first of all, how the NHS's are dealing with foreclosed properties in their neighborhoods, and what are you doing or do you think could be done to deal with these issues? Do you think you're an important tool that might help in the neighborhoods where you're currently operating?

Mr. WHITESIDE. Yes, I do.

I would like to divide that into two topics. One is the foreclosure itself. It is our hope that we can develop a strategy, with the cooperation of lenders and secondary markets and servicers at HUD and the VA, to intervene early in the process before the actual foreclosure has taken place and keep people in their home.

We believe—and we've seen examples of this—we believe it's possible, with the revolving fund to make short-term loans to the families to get them current on their debt, to begin allowing them to straighten out their personal situation, to give them time to get employed again, to give them time to work out whatever economic problem got them into foreclosure in the first place, to keep many of these homes occupied.

Obviously, this is enormously important to the family. It saves a lot of money for the financial institution not to have to go through this process, and it's incredibly important to the neighborhood to not have that home become vacant and boarded up.

Senator MIKULSKI. But how would you get into it? You talk about the strategy of partnership, cooperation, and so on. Somebody's got to take charge of this early intervention that you talked about.

Mr. WHITESIDE. We're working on a model program right now in Colorado Springs. It's patterned after a program in Denver and the individual running this program in Denver is helping us design it in Colorado Springs. It involves raising money for the revolving loan fund, working out arrangements to get early warnings from the lenders, and providing intensive counseling to the homeowners.

We are hopeful that we'll be able to expand this effort into a couple of additional cities this year, and if we can raise the funds locally necessary to do it, expand it to others in future years.

Senator MIKULSKI. So what you're saying is that the lender would note that a person is behind in their payments, and moving to what would be called a crisis situation. The lender then would reach out to the professional staff of NHS in the neighborhood, and essentially, the lender would have some more confidence in the process, knowing that that person is just not out there on the limb running up the payments owed.

Am I correct in that?

Mr. WHITESIDE. Exactly. And lenders are able and willing to pay some of the counseling costs in these situations. HUD, of course, has funds to pay counseling when it's one of their mortgages involved.

VA FORECLOSED PROPERTIES

Senator MIKULSKI. We are also very much interested in the VA foreclosures. And, of course, the VA is part of this subcommittee's jurisdiction. I'd like to talk a little bit about working with the VA on foreclosure intervention.

Last April you testified before the House Veterans' Committee on the VA home loan guaranty, and at that time you indicated that Neighborhood Reinvestment was looking at some type of cooperative pilot program with VA to look at problems related to delinquency, foreclosures, turning these foreclosures again into an asset and, of course, avoiding the human tragedy that's associated with the foreclosure.

Could you tell us what is the status of your relationship with VA in this foreclosure area? Is it moving ahead, are there obstacles, and so on, because we're very much interested in this?

Mr. WHITESIDE. We have not made progress in that area, Madam Chair. The Veterans' Administration is doing many wonderful things, but in the area of property disposition uniformly across the country we've found neighborhood organizations have had difficulty working with them.

Senator MIKULSKI. Working with VA?

Mr. WHITESIDE. Yes.

Senator MIKULSKI. Would you say that if you were going to give guidance to the subcommittee for issues to be addressed with the VA, what would you suggest that we raise with them? You have the expertise on foreclosure intervention.

Mr. WHITESIDE. Flexibility, I guess, would be the guiding principle, and the willingness to work out arrangements—and we'll be having the same discussion with HUD, I might add—with a well-qualified neighborhood organization to maintain the properties, to monitor them, and ultimately to buy them at a written-down cost.

It's my understanding that HUD and the VA lose over $20,000 on the average per property. If they could take that writedown up front and make the property available to a local nonprofit agency that could secure the property and monitor it and handle the upkeep, it would be an enormous assistance.

Senator MIKULSKI. Would it also be important to ask VA to analyze their situation with foreclosures and deteriorating properties which they own, to essentially have national leadership at the top, and to make part of their regional strategy and their district office strategy a policy that, first of all, there would be a national policy to work at the local level with existing neighborhood community structures with expertise in this area?

You are not in every neighborhood but there are, through municipal governments, through co-ops in my own community, Associated Catholic Charities run St. Ambrose Housing Corp. that knows how to do counseling with people in trouble about where they are financially or with their properties—and the VA could contract this service.

But I don't get the sense that there is a national policy nor a tempo that's oriented to this.

Mr. WHITESIDE. I believe you are right, and it would be wonderful if something like that could be worked out. And that may be

one of the benefits of all of us coming before the same subcommittee now.

Senator MIKULSKI. Well, on Wednesday, this subcommittee officially becomes the Subcommittee on Veterans' Affairs, Housing and Urban Development and Independent Agencies. Also, on March 15, VA becomes an official Cabinet-status agency, to which we salute.

But as part of this, we intend to see the interrelationships between agencies, to use our money not only wisely, but also to use our money smarter and to make sure that agencies who should be talking with each other are talking with each other. So we look forward to those agencies working with you and your considerable neighborhood expertise.

FHA FORECLOSURES

Another question I have, though, that deals again with some issues associated with HUD, there are a large number of Federal contracts for privately held subsidized or assisted units that will be expiring. The preservation of existing housing stock is of great concern to this subcommittee, particularly where we do not want people to either opt out, bail out, drop out, or default.

Could you think of a role that Neighborhood Reinvestment might play in helping to preserve these units for lower income use, particularly in the areas where there might be either default or where the landlord, the owner, the developer, wishes to remove himself from the project but not necessarily remove it from the rolls of a low-income housing unit?

Mr. WHITESIDE. I think this would be a marvelous matchup with the Mutual Housing Association. The Mutual Housing Association offers occupants a voice in their own future and in the future of the housing complex they occupy and is an extremely efficient way of dealing with multifamily properties.

What it takes to make one of these programs work is a combination of debt service and operating cost that, when it's broken down on a per-unit basis, low- and moderate-income families can afford to pay. So it would mean getting the price down or the interest rate down, or some subsidies into the property in such a way that you could end up with a final cost that has to be borne by rent that the families could handle.

Senator MIKULSKI. I'm going to follow my own rules.

Senator Grassley, I'd be happy to turn to you as the Republican, or do you want to take a few extra minutes to get your notes and your bearings, and I'll turn to Senator Kerrey?

Senator GRASSLEY. Yes, thank you.

Senator MIKULSKI. Senator Kerrey?

Senator KERREY. Thank you.

ELEMENTS OF AN NHS

Can you, just for my own benefit, describe what makes a successful NHS? What are the ingredients of a Neighborhood Housing Service effort that is successful?

Mr. WHITESIDE. A partnership of neighborhood residents, the business community, and local government, each bringing what they have in the way of resources and expertise.

Senator KERREY. We have one in Omaha that's a success and one in Lincoln, NE, that's not as successful. Why does one seem to work better? What are the ingredients of the successful effort?

Mr. WHITESIDE. It's a strong partnership, with each part of the partnership pulling their weight. A lot of times a small nonprofit organization will go through difficulties as they're getting the proper staff aboard and the leadership of the executive director of a program is critical. The leadership of the board is critical.

And I guess you run into environmental problems in different environments that give different stress on different programs.

I could call on Nathan Nichols to enlarge a little.

Mr. NICHOLS. I would add to that, Bill, that I think the timing and the pacing in terms of the solid nature of a program is a major factor. We, of course, work to develop a program over a 9 to 14-month period, very meticulously with the local partners in NHS. On occasion you have a program where the board may be very strong at the inception of a program, ready to take over; then they have the major issue of hiring staff. We work with boards on that. On occasion they need to revisit that decision. So that's a factor that affects the program's strength.

In terms of financial support, gathering the fundraising that's needed, resource development, that's another major factor. And again, the pacing of that as a program comes together is important. We're working hard so that it all comes together in a way that a program can start to build momentum from day one.

On occasion there are programs where they start out strong and then run into a problem. We help on those occasions. We do intervene, help with reorganization services at certain points, or if technical assistance is needed.

ROLE OF LOCAL FINANCIAL INSTITUTIONS

Senator KERREY. Do you monitor and advocate increased reinvestment on the part of local financial institutions in some of these areas that are typically low income and in some cases even blighted?

Mr. WHITESIDE. At the outset of the local partnership, frequently with the help of the Federal Reserve Bank and Federal Home Loan Bank, we'll bring the leaders of the financial industry together.

I must say that in recent years we haven't stepped back into that picture in terms of intervention with that kind of support from the regulators. And it might be that in many cases that would be a very useful thing to do.

Senator KERREY. Is that no?

Mr. WHITESIDE. It's yes in the beginning in each program, but in terms of an ongoing basis, I think there's probably more that we could do.

Senator KERREY. Do you have any examples of NHS's that have come forward and provided evidence of redlining or other sorts of discriminatory practices and asked for advocacy or assistance in moving things along at the local level?

Mr. WHITESIDE. Nathan, can you respond to that?

Mr. NICHOLS. Sure, we do. I think in terms of the pattern of lending that's coming into the neighborhood as the NHS's look at their relationships with local lenders, on occasion they ask us to help and either revive the interest or stimulate it.

So, yes, that happens on occasion.

Senator KERREY. What is your response then? How do you do that? Do you bring the Federal regulators in and ask——

Mr. NICHOLS. I'm sorry. We do have relationships, of course, with the regulatory agencies through our Board of Directors. On many occasions we work directly with the local regulatory offices in terms of a dialogue with local lenders, explaining what we're doing, and really bringing examples. I think that's the most important part. The lenders want to know how is this working elsewhere? If we invest in a number of ways, what does that mean?

So we're able to bring other examples, but we're able to come to the table with them on occasion, with the help of regulatory agencies.

Mr. WHITESIDE. I'd like to mention one other factor. I think as the financial industry has fallen onto more difficult times, that one of the things that their examiners are doing is to put pressure onto being profitable and to maintaining the net worth, which means that the underwriting criteria have probably strengthened considerably in the past 5, 6 years, which has meant that it's been harder to get conventional loans through the process. But we're still getting a very sizable volume of lending.

It's not an easy question to answer because it's so mixed throughout the country. I have noticed in the last few years, the last year or so, an increased emphasis on the Community Reinvestment Act enforcement on the part of the regulators, and that may have an effect after the long pressure on "don't take undue risks" that the examiners have been exerting.

Mr. KNIGHT. There are sometimes two difficulties that the lender faces, even when they want to make the loans. First, the transaction costs on a $20,000, $25,000 mortgage are exactly the same or very close to a $200,000 mortgage, and they often feel it is very financially costly for them to make small loans.

Second, they have to go through the effort of bundling those into packages to sell or face the choice of warehousing themselves.

We're working in about a dozen cities with lenders on special agreements in which they have pledged to put funds into a pool to make the loans that are admittedly small. They're at market rate, but they're just small loans with these high transaction costs.

Senator KERREY. Finally, I would like to align myself with the Chair in regards to the necessity of moving foreclosed housing stock that agencies simply (*a*) don't monitor, (*b*) don't maintain and cause a significant deterioration in the neighborhood, and (*c*) hold on forever and ever and ever without any willingness to mark down the price in a commonsense way that would enable them to save it.

It makes me extremely angry to see Americans not be able to purchase a home as a consequence of a Federal agency not doing something which commonsense dictates or to see a neighborhood

where people are trying to maintain it, and one of the worst landlords is the Federal Government itself.

Senator MIKULSKI. Thank you very much, Senator Kerrey.

Senator Grassley.

Senator GRASSLEY. Thank you, Madam Chair.

PRESERVATION OF LOW-INCOME RENTAL STOCK

Mr. Whiteside, in Iowa we have successful neighborhood housing programs in two communities, both Davenport and Des Moines, and I want to thank you for your help with those communities.

Those communities have problems, as, of course, large-city communities do. You have served both sets of problems very well. Although our problems may not be the same kinds as some of the very larger communities, but, of course, to low-income people in my State looking for help, it's still as important, the programs that you have available.

I understand that approximately 58 percent of housing stock in NHS's neighborhoods nationally is rental. So my question is, if you could describe for me some of the strategies that NHS partnerships are undertaking to preserving this stock for lower income households.

Mr. WHITESIDE. I'm glad you asked that question because one of the examples I'd like to cite is in Des Moines within the Drake University neighborhood. A large number of big old homes were subdivided into small apartments for students. The university subsequently shrank somewhat in size and that neighborhood is now home to a lot of low-income people.

The buildings themselves are in bad repair. The rents don't yield sufficient income to make it a decent investment. The Des Moines NHS has, with the help of a foundation grant to provide a form of risk insurance, and the support of the local lenders, started marketing these properties sometimes to one of the present occupants and to others of not high income at all, performing necessary rehab, and bringing an owner occupant into ownership, reducing somewhat the density of units in some of the buildings. And so you end up with an improved building, a better quality of life in it for the tenants, and at a very low investment level, an investment for a low- or moderate-income person who, as a landlord, will begin securing some income from the building as well.

They're moving through the neighborhood with a strategy like that. It's a slow strategy. They don't have a lot of money to use, but it's working successfully.

Senator GRASSLEY. Is that a fairly common strategy, because my question—I appreciate the example of Des Moines in my State, but is that a fairly common strategy, because my question was more toward an overall strategy or strategies that you might have.

Mr. WHITESIDE. Another is the strategy our Apartment Improvement Program uses, which is to work with the owner of a property which is losing money, and the owner is possibly going to lose the building through foreclosure. The program counsels the owner on how to improve the property, how to develop a cooperative relationship with the tenants and with the local government and lend-

ing institutions and the neighborhood itself, and how to make the property financially feasible.

Many owners of large apartment buildings are not sophisticated as investors. If you have a building that's about half vacant, everything starts sliding down hill, and you must really quickly move in and get the units fixed up and filled to make it work. And sometimes you can do that with little or no subsidy. Other times a bloc grant or other subsidy will make it work.

NHSA SECONDARY MARKET

Senator GRASSLEY. In 1986, our Appropriations Committee provided a special appropriation of $1 million to expand your secondary market's ability to buy loans from NHS's in cities where there were not the private sector resources needed to subsidize NHS loan sales.

This appropriation leveraged $5 million in loan sales, and in Davenport we were able to use the $30,000 to create $100,000 in loans.

My question is: What kind of resources are you anticipating needing in order to meet the secondary market needs of these cities for the coming year?

Mr. WHITESIDE. We figure that about a $1 million subsidy on our part to the secondary market produces about $5 million in loan purchases from the local program. And we are able to continue this on an ongoing level. The extra million dollars I mentioned earlier enabled us to double up on this in that 1 year.

There is a considerable unexpressed demand for secondary market sales, and additional funds would expand it to other have-not cities such as Davenport and Des Moines.

Senator GRASSLEY. With the increase in interest rates, are you anticipating any increased demand?

Mr. WHITESIDE. Yes. An increase in interest rates puts pressure on the revolving loan fund of a local program because some families that were bankable at 10 percent are not bankable at 11 percent, and so the revolving loan fund comes more into play.

STRATEGIES FOR SOFT REAL ESTATE MARKETS

Senator GRASSLEY. In communities where there's an extremely soft real estate market, what kinds of strategies are you finding most effective to protect the housing stock and stimulate homeownership?

And let me say further, what are the minimum resources that you would need to respond to the demand for these program strategies?

Mr. WHITESIDE. George, would you like to comment on the ways that we're doing that?

Mr. KNIGHT. It's a challenging question. I think the answer really lies in a multiple approach. You have to work with the existing homeowners, particularly those who may be close to in trouble on foreclosure. You need to deal with the vacant homes.

In one community in the Southwest, it meant having to have some homes torn down, which sounds terrible to folks in the North-

east, but it was a way to deal with a blight that those vacant and probably never-to-be-occupied homes could become.

You need to focus much more on communication in the neighborhood to allay fears and the lack of information that may be available, and you need to very aggressively market the positive aspects of your neighborhood—the local school, the shopping district, the access to downtown, the churches, whatever the asset in a community is.

So you have to take a broad-brush approach. You can't put your hope on a single point because one of the things that occurs in a soft real estate market is a sense of it's hopeless and if I don't get out now, it will only be worse, and you need to end that psychology very quickly.

SELF-RELIANCE

Senator GRASSLEY. I understand that 71 NHS neighborhoods have achieved self-reliance, allowing the NHS to move on to serve other neighborhoods of need in their communities.

Does Neighborhood Reinvestment monitor these neighborhoods or provide services to ensure that they do not slip back into some deteriorated state?

Mr. WHITESIDE. We have begun doing this, and we're learning that we are going to have to do more.

Nathan, perhaps you could elaborate on that.

Mr. NICHOLS. As Bill said, we are really in the middle right now of working with the self-reliant neighborhoods to carefully define, in a long-range sense, our relationships with them. I think their interest is, first, as they move forward, they want to make sure that they're not sliding backward at any point, and obviously we're in support of that intent, and that was the whole intent of NHS from the beginning.

We're finding a varied experience around the country, a solid base of self-reliant neighborhoods where they have a stabilized neighborhood and, more importantly I think, they have the habits and the vigilance to that kind of community spirit that Madam Chair alluded to, to continue the work.

They're going to have problems that come up, but they have a mechanism to deal with the problem. They have community organizations, some organization that's in place. So we have some good examples of that working.

In other places, they're looking at some problems they didn't expect. They need some new tools. And we are working with them to define how they get those tools, and I think where we're coming out is that their primary relationship really is going to be with the local NHS that they will form a part of at one point, but that would be the primary relationship. And we would assist in training, providing some forums for exchange of information for self-reliant neighborhoods, and in certain cases maybe small, very small grants.

Senator GRASSLEY. Thank you, Madam Chairman.

NATIONAL LEADERSHIP CONFERENCE

Senator MIKULSKI. Mr. Whiteside, your fiscal 1990 budget provides for money for grants and grant commitments that amount to a 28-percent increase over fiscal year 1989. As I understand it from reading the proposal, this is due to a tripling of the training and education grants for the National Leadership Conference.

My question is, why do you need a conference and why would you need this increased funding? Your organization has a reputation for capacity building in neighborhoods and doing training in neighborhoods. Not everybody can come to a national conference.

Wouldn't it be better to take the close to $500,000 and you to be doing regional workshops or other type, or put this money into a mutual housing project or so on, rather than $500,000 for a national conference?

Mr. WHITESIDE. One of the things that makes our budget a little uneven is that we do this only every second year. We're not doing it without a lot of forethought. We find that you have programs that are extremely successful, you have some that are struggling, and you have some that are new.

Bringing them together, letting them mingle in workshops and educational opportunities is a tremendous assist. It's a greater assist than the same amount of money spent on augmenting the revolving loan fund, for instance, in some neighborhoods. It's a way of spreading the yeast of what's working in neighborhoods to other programs.

I really strongly support this as an element of our budget. We find it very effective.

Senator MIKULSKI. You see, I'm not arguing against the national conference, but I don't think that sells me. I mean you could take a successful neighborhood program and fly them to five cities that are struggling, and that would cost you maybe $1,000 or $2,000. We're talking about $500,000 out of a budget. That's a lot of money. And then to do it every other year.

Mr. WHITESIDE. I agree with you that it's a lot of money, but if you realize that there are probably 30 strategies that they're comparing notes on, and if we tried to, in a hands-on way, provide this training on 30 strategies in several cities each, it would be far more expensive to us.

It's not a boondoggle; it's a genuine educational opportunity. They work hard for about 2½ days from early morning until late at night, and it's an important part, it's a breeding ground for the confidence to carry on this difficult undertaking.

Senator MIKULSKI. Where do you intend to have this conference?

Mr. WHITESIDE. I don't know that we've settled on a final location. Atlanta had a very attractive bid in the last I heard.

Senator MIKULSKI. And when do you intend to have it?

Mr. WHITESIDE. It would be right after the beginning of the fiscal year.

Senator MIKULSKI. Senator Kerrey, do you have any other questions?

Senator KERREY. Just a comment. My staff tells me that my comment about successful and unsuccessful programs in Nebraska, ref-

erencing the one that's a success in Omaha and the one that's not terribly successful in Lincoln may make its way back to Lincoln.

I should make it clear that prior to becoming a candidate for the Senate, I was on the board of directors for the one in Lincoln, and so I am intimately familiar with the problems of trying to establish one in the community. That's why I so strongly align myself with the comments of the Chair when it comes to Federal agencies not cooperating with local efforts.

Senator MIKULSKI. Thank you, Senator .

We have some other questions for the record but the time is moving along, and so we will submit them to you.

In addition to that, I would like to say that we do think that your agency has been the source of really neighborhood work, or work in small towns that I don't think would have been done. It certainly would not have been done by the Federal Government through any other forum and would not have perhaps galvanized local communities in the way we have.

We are looking forward to working with you both in terms of the foreclosure strategy, also in terms of the assisted housing strategy, as well as helping you do what you have done best. I think the thing that most impresses me, though, is the capacity building in neighborhoods. That's why when we do our training dollar, I want us to use it as smartly as we can, because so much of the work is being done now through the nonprofits, and what we do know about nonprofits is that there has to be capacity building for them to do their job, whether it's to build rehab housing, whether it's to be doing many of the other things that are important in communities.

We thank you for the work that you're doing and we look forward to working with you, and there will be some other questions for the record. So thank you very much.

SUBMITTED QUESTIONS

[The following questions were not asked at the hearing, but were submitted to the Corporation for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR MIKULSKI

MUTUAL HOUSING ASSOCIATION FINANCING

SENATOR MIKULSKI: The first Mutual Housing Association is located in my own city of Baltimore and has enjoyed great success. In your opening statement you said that as additional Mutual Housing Associations are developed, state/local and private sector partners are providing more matching funds than initially anticipated.

Could you explain to me the financing entailed in the development of a Mutual Housing Association?

ANSWER: State/local and private sector partners are, in several communities, providing funds for small scale development of Mutual Housing Associations. Following are examples of the complex nature of current financing packages. In order to develop Mutual Housing Associations in communities without these resources, and to stimulate additional local input, a reliable Federal match would be needed.

a) Stamford, Connecticut

City	has committed $3.2 million grant for site acquisition for 75 units.
State of Connecticut	$11.7 million commitment from the Dept. of Housing.
Residents	Membership fees between $2,500 and $4,000.

Private Sector - The Stamford NHS is currently undertaking a three year campaign to raise $600,000 + per year from private sector for administrative costs for both the NHS & Mutual Housing Association. The need for assistance with administrative costs for Mutual Housing will diminish as the number of units increases.

b) Hartford, Connecticut

City	Commitment of City-owned land for Phase II (20 units - new construction).
State	$2.7 million commitment for acquisition/rehab of Phase I - (42 units of existing brick, bow front, contiguous structures on Park Terrace).

Private	$500,000 grant for purchase/acquisition of Park Terrace. (CIMA, CIGNA, The Travelers).
	Current commitments of $100,000 + for administrative costs of program in first year (campaign just begun).
Residents	Membership Fees - $2,000.
	Housing Charges (depending on member income, housing charges will range from $125 - $500 per month).
	Current targeted population for Park Terrace will have incomes between $10,000 and $29,000.
State of Connecticut	$20 million currently committed to specific Mutual Housing projects in Connecticut.

c) Austin, Texas

Primary public funds to date have been Rental Rehab and CDBG commitments in excess of $500,000 for Inwood Apartments - 63 units. CDBG funds were used for acquisition. Austin Mutual Housing Association is currently seeking $220,000 in additional acquisition funds from foundations and the private sector.

A second project entails the Mutual Housing Association assuming a mortgage on a privately-held foreclosed property. The occupant members will be providing about $2,000 each as a membership fee to provide equity.

The following are principles and guidelines relative to financing are entailed in the development of a Mutual Housing Association:

1. Goals:

a. permanent affordability for low and moderate income (below 80% of median) residents - (no more than 30% of income).

b. Creation of ownership-like "stake" for resident members - (requirement for membership fee).

c. permanent ownership by community-based, non-profit Mutual Housing Association.

d. sufficient short and long-term reserves to insure soundness and quality of housing over time.

e. financial involvement of public and private partners to insure that housing is truly viewed as a community resource.

f. ongoing production.

2. These goals may be achieved by implementing a combination of the following strategies:

a. use of membership fees by member occupants which approximate 5% of the cost of the units.

b. government and/or private capital grants which reduce the mortgage amount of an affordable level.

c. purchase/acquisition of units at a sufficiently low price so that the mortgage is affordable.

d. long-term soft loans which along with conventional financing result in an affordable set of terms.

e. minimization of tax driven schemes which result in frequent (15-20 years) refinancing/restructuring of the project.

f. real estate tax assessment on an income approach to value.

g. use of public grant programs, where available, to reduce the amount needed to be financed at conventional rates.

h. use of public bonding authority on behalf of the Mutual Housing Association.

MUTUAL HOUSING ASSOCIATION STUDY

SENATOR MIKULSKI: In last year's Senate hearing record you stated that a study documenting Mutual Housing Associations would be completed in July 1988. Were you on schedule with that?

Please describe your findings.

ANSWER: The study was completed in draft format in September, 1988. In November and January we received comments from HUD and the Office of Management and Budget. We anticipate the final report in May.

The findings of the study as summarized for our November 22 Board of Directors meeting follow.

Mutual Housing Associations
by
Rachel Bratt, Ph.D.

EXECUTIVE SUMMARY

This study of the national Mutual Housing Association demonstration (Section 316, Public Law 96-399), conducted by the Neighborhood Reinvestment Corporation, addresses three principal topics:

(1) the mutual housing association concept, as developed by Neighborhood Reinvestment, from an organizational perspective, as well as from the perspective of relative costs to the federal government of subsidizing Mutual Housing Associations as compared to other types of subsidized housing;

(2) the organizational development process of the Baltimore Mutual Housing Association with comparative examples from a parallel process in New York City; Neighborhood Reinvestment's ongoing technical services and monitoring; as well as the physical and financial outcomes in Baltimore; and

(3) a survey of the current Baltimore occupants and the degrees to which this combination title and tenure achieves its objective of giving occupants a psychological "pride of ownership."

Adapted from a West German model for providing permanent, affordable housing, Neighborhood Reinvestment's initial site is located in Baltimore. As adapted, the Mutual Housing Association is a private, nonprofit, tax-exempt organization governed by a board drawn from the association's membership categories.

Occupants, applicants for units, community residents, business and public sector representatives are members of the association and the board. A small staff provides the essential services of property development and management, association management and occupant training.

In answering the question, "What does it cost and how does it compare to other subsidy approaches?", a wide variety of existing and hypothetical subsidy programs were compared. These ranged from public housing to a hypothetical Section 8 production program with tax-exempt financing. Uniform cost assumptions were utilized to focus the analysis on the financial differences.

The author concluded that mutual housing and public housing were the most cost-effective over a 20-year term and that, if replacement of the units were to be factored into the formula, "the mutual housing and public housing models emerge as even more cost effective.

Thus, mutual housing emerges as a highly cost-effective housing subsidy that provides affordable housing to present, as well as future, generations of low-income families. This hard-nosed economic reality, when combined with the other many strengths of mutual housing ... makes a convincing case for increased federal support of the mutual approach."

In reviewing the organizational process in Baltimore, conflicts inherent in the sponsorship of low-income housing were identified and a comparison was made among private, nonprofit owner/rental, and mutual housing models. Each approach requires the interaction of a large number of private and public actors. Conflicts such as the "Not in My Backyard" syndrome were found to be present for all types of sponsors, although the author concluded that the mutual housing association model "is likely to benefit from greater congruence of interest than the other sponsors of affordable housing. Other nonprofit developers who are both dependent on HUD programs and on private investors are likely to face considerably more difficulties."

The 49 occupied units of Mutual Housing in Baltimore were built at a total cost of $2.7 million. The Baltimore demonstration was able to raise only a limited amount of grant money, about 27% of total development costs, the balance being financed through six separate loans. Two-thirds of this debt was secured at interest rates of 0% to 4% with 30-year terms. The author noted that there is a continuing need to raise grants and charitable contributions to provide for staff costs and to expand the number of units.

Of the 49 occupied units, 73% of the families have incomes that would be classified as low or very low income. The median income of the residents is $18,650, considerably above that of public housing and Section 8 Existing and Moderate Rehab program residents. Wages represented the source of income for 69% of the resident families, compared with 12% and 19% of public housing and Section 8 families. Educationally, 64% of the families have finished high school.

The major difference between the theoretical model tested and the actual experience in Baltimore is the amount of debt that is carried in Baltimore. "Almost 51% of the resident' monthly fees is allocated to debt financing. This means that if there were no outstanding loans on Alameda Place [the name of the Baltimore Mutual Housing site], many more very low-income people could be served."

Two key aspects of community-based housing are the degree of resident control and the reduced likelihood of displacement. The latter is an essential part of the mutual housing association model. The former was reviewed through a psychological profile of the existing residents to test their "empowerment" or increased control over the course of their lives. Generally, the residents were enthusiastic about the quality of the housing, although there were some negative comments on management. Importantly, two-thirds of the residents appear to think of themselves more as owners than renters.

The economic aspects of mutual housing were valued highly by 40% of the respondents in terms of their investment, low monthly payment, and the opportunity to have a family member succeed to their unit.

"The overall finding of the survey is that moving into mutual housing has, indeed, made a difference in the residents' lives. The survey presents convincing evidence that psychological empowerment has occurred. There are high levels of satisfaction with the physical environment, and feelings which are most commonly associated with homeownership are expressed.

FY 1989 YEAR END BALANCE

SENATOR MIKULSKI: At the start of FY 1989, your balance was $766,000. However, last year's justification projected that balance would be $300,000. Why did you have such a large balance at the beginning of FY 1989 and why was your original projection so wide of the mark?

ANSWER: Each year we prepare an expense budget utilizing all available sources of funds. Nevertheless, we have come to anticipate some unobligated funds at year end. When the FY 1989 Justification was prepared in February 1988, we estimated an unexpended carry forward of $300,000 which was comparable to the $368,000 average unobligated balance of the previous five years.

The attached shows a detailed comparison of audited income and expense to budget. Also attached is a discussion of the major line items in the FY 1988 unobligated balance.

NEIGHBORHOOD REINVESTMENT CORPORATION
($000s)

	FY 1988 AUDITED ACTUAL	FY 1988 APPROVED BUDGET	VARIANCE $	VARIANCE %
SOURCES:				
Beginning	$500	$500	0	0.00%
Congressional Appropriation	18,720	18,720	0	0.00%
Interest	981	943	38	4.03%
Local Project Development	175	230	(55)	-23.91%
Deobligations of Prior Year Funds	385	392	(7)	-1.79%
Other Receipts	77	39	38	97.44%
TOTAL SOURCES	$20,838	$20,824	$14	0.07%

USES:	FY 1988 ACTUAL	FY 1988 BUDGET	VARIANCE $	VARIANCE %
Compensation	$9,183	$9,375	(192)	-2.05%
Travel	1,689	1,786	(97)	-5.43%
Professional Services	583	805	(222)	-27.58%
Conferences and Workshops	286	273	13	4.76%
Occupancy	1,173	1,225	(52)	-4.24%
Telephone/Postage/Delivery	593	675	(82)	-12.15%
Printing, Films and Supplies	369	490	(121)	-24.69%
Other General and Administrative	768	715	53	7.41%
SUB-TOTAL:	$14,644	$15,344	($700)	-4.56%
GRANTS:				
Neighborhood Housing Services of America	$1,670	$1,670	0	0.00%
NHS/AIP	426	465	(39)	-8.39%
Mutual Housing	293	263	30	11.41%
Programmatic Supplements	1,134	1,125	9	0.80%
Administrative	330	345	(15)	-4.35%
NPP	312	300	12	4.00%
Training:				
NHS Training	191	267	(76)	-28.46%
Intern	118	120	(2)	-1.67%
Conferences	121	155	(34)	-21.94%
SUB-TOTAL:	$2,925	$3,040	($115)	-3.78%
TOTAL GRANTS:	$4,595	$4,710	($115)	-2.44%
PROGRAM DEVELOPMENT:				
Local Sources	$175	$230	(55)	-23.91%
Congressional	658	540	118	21.85%
TOTAL PROJECT DEVELOPMENT	$833	$770	$63	8.18%
TOTAL USES	$20,072	$20,824	($815)	-3.91%
CARRY FORWARD TO FY 1989	$766			3.82%

Revenue	Due to higher interest rates and higher balances of deposit, we earned $38,000 more interest than originally projected. An additional $38,000 in other revenue (which includes the return of prior year grant funds from inactive programs) was offset by less than anticipated local project development revenue.
Compensation	Because of more staff departures than anticipated and delays in filling vacant positions, we expended $192,000 less than budgeted. Though budgeting for 215 full time equivalent staff members, on average we employed only 210.
Travel	Because of a lower number of full time traveling staff than anticipated, we spent $97,000 less than budgeted.
Professional Services	Because the Advertising Council asked us to consider a new approach, delaying the campaign, we expended $222,000 less fees for the campaign than anticipated.
Telephone, Postage, Delivery	Due to the delay in filling vacant full time positions, we spent $82,000 less than budgeted.
Printing, Films and Supplies	Because of the restructuring of our Communications Department and the delay in the Advertising Council campaign, we did not spend $121,000 on publications we had planned to produce.
Training Grants	Because of the delay in the Advertising Council campaign, several local training sessions planned to capitalize on the national campaign did not occur as anticipated, leaving $76,000 in unexpended training grants. Training grants related to the National Resident's Conference were underspent by $34,000 due to a billing delay for airfare. These expenses were subsequently charged in FY 1989.
Project Development	Due to the changeable nature of local project development activities, we spent $63,000 more than budgeted.

QUESTIONS SUBMITTED BY SENATOR LEAHY

NHS RURAL PROGRAMS

SENATOR LEAHY: I am of course aware of the NRC's strong work in establishing NHS programs in three Vermont locations. How many other rural NHS programs has the Corporation been involved in starting since its inception? Where?

ANSWER: In addition to the NeighborWorks organizations in Barre, Rutland (West), and Randolph, Vermont, there are NeighborWorks organizations in five other rural areas: Aberdeen, Washington; Cattaraugus County, New York; Dimmit County, Texas; Mabton, Washington; and Richland County, Wisconsin.

SENATOR LEAHY: Are any of these rural NHS programs involved in providing downpayment assistance to first time homebuyers? Has the Corporation directly provided funds to any of these NHS programs for homebuyer downpayment assistance? If so, is there an active application process for NHS programs seeking Corporation investments in revolving loan funds for downpayment assistance?

ANSWER: In FY 1988, Neighborhood Reinvestment provided a $35,000 grant to the Aberdeen NHS as seed money to set up a revolving loan fund for a special home purchase program. With the help of three local lenders, the NHS has put together a special financing plan which allows buyers with incomes in the low and middle teens to purchase and rehab homes in the NHS neighborhood. The program provides 100% or 100%+ purchase/rehab financing. The NHS makes the entire loan including purchase, rehab, downpayment, and closing costs. The buyers are encouraged, but not required, to put down some money. The NHS then sells a portion of the loan to one of three participating banks. Since the participating lenders require 9.5 percent interest on their loans, the amount of a loan sold to a lender varies depending on what the buyer can afford. Between September, 1987 when this special homeownership promotion program began, and December, 1988, the NHS had closed on 13 loans.

All NeighborWorks organizations qualify to participate in the Forward Commitment program of Neighborhood Housing Services of America. Under this program, the NHS makes a loan for 100% of the purchase and rehab costs and sells the loan to NHSA according to a previously agreed commitment of "market rate" funds. To date, Dimmit County is the only rural organization participating in this program.

Through the use of a small Neighborhood Reinvestment Grant, the Dimmit County NHS in conjunction with the Housing Assistance Council is building 3-bedroom homes with NHSA permanent mortgage financing for 100% of the purchase cost. There will be up to five houses in the demonstration round.

At the current time, the major means of assisting NeighborWorks organizations to recapitalize the revolving loan fund to allow for downpayment assistance financing is through small $5,000 Homeownership Promotion grants or through sale of loans on the NHSA secondary market.

EMERGENCY OPERATING GRANTS

SENATOR LEAHY: I understand that the Corporation considers operating grant applications from NHS programs that are undergoing a "reorganization or temporary crisis." Can you tell me the amount that was made available in such grants in FY 1988? How much do you anticipate will be made available in FY 1989? What is the timetable for receiving such applications in FY 1989?

ANSWER: In FY 1988, Neighborhood Reinvestment expended $329,950 in Emergency Operating Grants to NeighborWorks organizations. Some of these grants are reimbursable. When possible, Neighborhood Reinvestment works out a repayment schedule with the organization based on the program's ability to pay.

For FY 1989, Neighborhood Reinvestment has budgeted $345,000 for Emergency Operating Grants. There is no special timetable for applying for these grants since they are designed to be a quick response to unanticipated emergency situations.

You may also be interested to note, that, beginning last year, Neighborhood Reinvestment has developed a new grant category to assist organizations to expand their capacity to achieve neighborhood revitalization goals. Examples of capacity building grants include: strategies which strengthen the organization's resource development capacity; provide funding for interim or expanded staffing during a period of transition or rapid expansion; involve the creation or significant upgrading of systems; or provide specialized technical services such as legal or accounting.

QUESTIONS SUBMITTED BY SENATOR KERREY

DRUG RELATED STRATEGIES

SENATOR KERREY: You referred to the growing drug problem, have you thought about a strategy for using Neighborhood Housing Services to combat drug trafficking and use?

ANSWER: A "staple" rehabilitation tool in many neighborhoods has been to acquire "crack houses" and rehabilitate them for residential use. In other cases obtaining the city's cooperation in razing the property has been the only solution. A number of NHSs and other NeighborWorks programs have implemented promising strategies to combat drug dealing and its deadly effects on their neighborhoods. The Boyle Heights NHS neighborhood in Los Angeles, the Reading NHS in Pennsylvania and the Jamaica Apartment Improvement Program in New York City have all developed community-wide task force approaches to dealing with drugs. Their strategies have featured a comprehensive mobilization of community groups and government agencies, e.g. block clubs, churches, police department, District Attorney's office. Widespread drug surveillance, monitoring and prosecution of drug dealers are integral parts of these strategies that have yielded significant success in gradually driving drug dealers out of neighborhoods.

SENATOR KERREY: Are there certain kinds of rehabilitation and revitalization efforts that might be more helpful in combatting drugs than others?

ANSWER: Other NHSs are presently at a loss in terms of effective approaches to fighting drugs and related crime. We will be working this year to get helpful information to these programs and to help further develop a number of examples of NHS success in this area. There are many layers of problems associated with drugs, e.g., once dealers are out of the neighborhood, how does the community effectively provide rehabilitation for addicts and, longer term, provide positive alternatives for youth in the areas of values, education and economic betterment. It is clear NHSs will need to reach out and link up with other groups and organizations to deal with the spread of drug dealing and the violence and human devastation that come with it.

MULTIFAMILY FORECLOSURES

SENATOR KERREY: You talked about the increasing number of foreclosures on multifamily dwellings. Does this result from the fact that maintenance and upkeep make them economically unviable?

ANSWER: Multifamily foreclosure is largely a function of individual market places. In the Southwest and Rocky Mountain areas an over abundance of units and aggressive financing have

been major factors. In older neighborhoods poor maintenance, lack of repair of major systems such as electrical, and poor management are frequently major factors.

In many NHS neighborhoods, the multifamily buildings are small (4 - 25 units) and require close, careful management to be functional. In many cases restructuring the building physically, financially and managerially returns these buildings to a useful life and source of low rent units. There are two challenges. First, is to find an owner occupant or owner/manager who is interested in the long-term as opposed to short-term tax considerations. The second is to secure financing that contributes to the long-term financial viability of the building.

MUTUAL HOUSING ASSOCIATIONS

SENATOR KERREY: Large multifamily projects have come under attack over the years for a variety of reasons -- concentration, maintenance costs, etc. Do you think such facilities can be more viable operated under the auspices of your associations or groups assisted by your Corporation than they have been in other circumstances?

ANSWER: Yes, Mutual Housing Associations are governed by a partnership board including occupants, the business community, the public sector residents who are waiting for units and representatives of the neighborhood in which their properties are located. The occupants have a financial investment (approximately 5% of the unit costs) and a "pride of ownership" - like interest in good maintenance. This pride is engendered in part by Mutual occupants' life-time tenure, and their sense of control over their own destinies.

Mutual Housing Associations are financed with a combination of long term loans and grants structured to achieve affordability for the life of the property.

MODEL PROFILE: MULTIFAMILY REHAB

SENATOR KERREY: Reading through the cases which you cite, it is clear that your success stories often involve not just housing assistance but a panoply of services. Do you have a model profile of what is needed to make a rehabilitation or revitalization project viable?

ANSWER: Yes. There are four critical factors involved or needed to make a rehabilitation project viable for low and moderate-income families. See:

1) The project needs to be part of a broader neighborhood revitalization strategy that addresses both physical needs and the social fabric.

Senator Kerrey

2) The project needs to make economic, social and physical sense to both the occupants and the owner.

3) The project needs a long-term perspective to financing so that 25 year self amortizing loans are the most desirable.

4) The project needs to have real estate taxes calculated on an income approach to value which allows the buildings occupants to be on a fair share basis with middle income building occupants.

QUESTION SUBMITTED BY SENATOR INOUYE

HAWAIIAN FIELD OFFICE

SENATOR INOUYE: Preliminary discussions with the Neighborhood Reinvestment Corporation indicate that there is a strong desire to expand its activities and establish a field office in Hawaii. What is the estimated cost of opening such an office and expanding activities to include Hawaii?

ANSWER: In our work developing and providing technical services to the Neighborhood Housing Services of Honolulu, serving the Kalihi-Palama neighborhood, and in the assessment and early development of an NHS to serve Nanakuli, the Corporation has relied on mainland field services officers supplemented by temporary staff members hired locally. Staff turnover and reassignment has resulted in substantial amounts of time lost on orienting new mainland staff to Hawaiian institutions, and high travel costs.

To meet the anticipated demand for our technical services and organizational development of additional neighborhood programs in the Hawaiian Islands, it would be cost effective to have a Hawaiian office staffed by full-time Neighborhood Reinvestment staff members. The annual cost of such an office would approximate:

Compensation	$139,000
Travel	31,000
Other Operating	37,000
Total Operating	$207,000
Grants	$200,000
Project Development	40,000
Total Grants and Project Development	$240,000
Training and Support Services	$50,000
Total Estimated Costs	$497,000

SENATOR INOUYE: Is it the intent of Neighborhood Reinvestment to fund its Hawaii project if funds are available in FY 1990?

ANSWER: We would include funding for this project in the budget recommendation to the Corporation's Board of Directors if funds were available; however, there is no provision for these expenditures on the Corporation's FY 1990 funding request.

NATIONAL INSTITUTE OF BUILDING SCIENCES

STATEMENT OF MACDONALD BECKET, CHAIRMAN OF THE BOARD

ACCOMPANIED BY:

LOUIS GUY, JR., P.E., MEMBER, BOARD OF DIRECTORS, AND TREASURER

DAVID A. HARRIS, AIA, PRESIDENT

JOHN G. LLOYD, CONTROLLER

GENE C. BREWER, PRESIDENT EMERITUS

JIM KECK, POLICY DIRECTOR, LEAD POISONING PREVENTION

INTRODUCTORY REMARKS OF SENATOR MIKULSKI

Senator MIKULSKI. We are going to now move to the hearing on the National Institute of Building Sciences. The subcommittee next welcomes Mr. MacDonald Becket, Chairman of the Board of the National Institute of Building Sciences.

The Institute was formed by Congress in the 1970's to help develop technical expertise in building sciences, to help both the Federal Government and the private sector in this area. In 1984, Congress provided a $5 million trust fund to help partially finance the NIBS work for a 5-year period.

The trust fund sunset date, agreed to by NIBS' own supporters in the Congress, is set for October 1 of this year. We do not doubt the hard work and dedication and good intentions of NIBS in its various projects, but I am concerned about renewing a trust fund which this committee agreed to sunset at the end of fiscal year 1989. Five million dollars could do a lot to help American families.

We want to then hear the full testimony to see where NIBS is in their own fiscal stability.

With these thoughts in mind, Mr. Becket, why don't you proceed? And, if you would, would you please introduce to Senator Kerrey and me those who are joining with you at this witness table?

Mr. BECKET. Thank you very much, Madam Chair.

INTRODUCTION OF ASSOCIATES

First of all, Louis Guy, who is our Treasurer; David Harris, the President; John Lloyd, Controller; and Gene Brewer, President Emeritus. We also have in the audience Jim Keck. We understood there might be some questions on our Lead-Based Paint Project Committee, which he chaired.

I am going to just take about 10 minutes to quickly review what we've done and then immediately go intc the question period.

Senator MIKULSKI. Mr. Becket, do you have a more elaborate statement that you'd like included in the record?

Mr. BECKET. We have submitted the financial statements and the full testimony.

Senator MIKULSKI. Without objection, your testimony will be in the record, and it is our usual practice that financial statements become part of our justification documents. But all of the material you submitted will be part of the committee's portfolio.

Why don't you proceed in your summary?

Mr. BECKET. Thank you.

SUMMARY OF STATEMENT

We have been making a great deal of progress, and it's a pleasure to be here today to give you a good report. We've had, since we started in the early 1970's, some ups and downs over that time, but in the last 5 years, we really have been making a lot of progress.

The number of people in the building community that now know, respect, and support us is just incredible. Many are Fortune 500 companies, and many are important trade associations. More notably, we've been providing services for the GSA, EPA, the Navy, and the Army. A lot of people don't yet understand or are just now realizing the benefits we are providing.

CONSTRUCTION CRITERIA BASE

In the case of the Navy, I'm an architect as you know, and when you do a Navy project, you get a stack of rules and regulations that is unbelievable. Then you get a second stack of documents that supersedes the first. Half the time you can't tell where you are.

Recently we have taken all the Navy's documents, and similar technical criteria for the Army, NASA, and the Veterans Administration, and we've developed a program on a computer accessible disk that can be updated on a quarterly basis and sent out to everybody at a very affordable cost. The warehousing alone to handle those documents simply will not be needed in the future.

NIBS' CONSENSUS PROCESS

NIBS provides the neutral forum for the building community—it's the level playing field, if you will, and we are now known for that. We have provided technical specifications for asbestos abatement work. You may recall that the first thing that people said with asbestos is tear it all out. In many cases, that's the worst thing you can do. Now we have criteria that clearly describes how to handle this problem.

We also conducted studies of modular housing regulations, lead-based paint, and improved criteria for operating and maintaining medical facilities. It's all accomplished through NIBS' consensus procedure.

NIBS PROGRAMS

A recent study by NIBS' Wood Protection Council has produced a technical guide that is helping to reduce the Nation's $750 million annual cost to replace damaged and decayed wood.

Regarding housing rehabilitation codes. Many building codes preclude cost effective rehabilitation because the code requires compliance with new construction standards. This can't reasonably be done in older buildings. In the early 1980's, NIBS developed rehab

guidelines, and is now planning to study the benefits of a rehab code to further reduce housing costs, especially in the inner cities.

Land use criteria, building seismic safety, fire toxicity are other areas in which the Institute is active. There is much interest in fire toxicity. We have known for some time that it isn't the fire that kills people; it's the toxic smoke. Through NIBS' new toxic hazard test method, we are studying building materials and furnishings to better predict their performance in fires.

Last year, NIBS' Building Thermal Envelope Coordinating Council updated a national program plan on the thermal performance of buildings. The Nation's energy problems have received less press lately, but the energy crisis is still with us. And I'm sure you have read recently about radon problems in certain areas. We have plans to work with the EPA to provide realistic criteria for builders and designers to address this concern. All of our studies are geared toward lowering the cost while providing better performance.

PRIVATE SECTOR SUPPORT

The private sector has shown tremendous interest in NIBS and in the continuation of our work. For the fifth year in a row, we have received from the private sector the full amount of matching funds required by the terms of the trust fund.

Beyond the private funds, the private sector volunteers its time and experience, providing an estimated value to NIBS and the country of $2 to $3 million annually. A tremendous voluntary effort is contributed by NIBS members who are very much interested in improving the Nation's rules and regulations for the building process.

For these reasons, we are asking that the sunset provision be removed from the trust fund in order that we can continue this good work and provide quality services to the Congress and the Federal agencies. We believe, and I know personally, that the public and private sector have been served well and should continue to be so served.

Thank you.

Senator MIKULSKI. Thank you, Mr. Becket. You did that in 8 minutes.

Mr. BECKET. I try to be efficient.

Senator MIKULSKI. Yes, I can see that. That was very much appreciated.

[The statement follows:]

STATEMENT OF MACDONALD BECKET

Madam Chair and members of the Subcommittee, I am MacDonald Becket, an architect from Santa Monica, California, and the chairman of the board of directors of the National Institute of Building Sciences (NIBS). With me today are Louis L. Guy, Jr., P.E., the treasurer; David A. Harris, AIA, the president; John Lloyd, the controller; and Gene C. Brewer, president emeritus.

We have delivered to the Subcommittee our financial statements for the year ended September 30, 1988, our fiscal year 89 budget, and other financial information. We also have provided you with copies of our written testimony which covers in detail the projects and programs we conducted this past year and a Programs and Projects summary describing work presently underway.

I would like to briefly summarize highlights of our recent progress:

- Since it was organized in the late 1970's and especially over the past 5 years the Institute has earned the support of numerous prominent building commu-

nity organizations. Our supporters include many Fortune 500 companies as well as individual participants in the building process. Trade and professional associations often seek NIBS' assistance in resolving sensitive and difficult issues.

- NIBS is sought after by Federal agencies such as GSA, EPA, NAVFAC, AOUSC, and others to respond to their needs and help to solve their increasingly complex problems related to building technology and regulation.
- NIBS has become known as a neutral forum for tackling the tough issues that can only be resolved on a level playing field. Issues such as asbestos, modular housing regulation, lead-based paint, and HHS criteria for medical facilities can not only be best handled by NIBS, in many cases they can only be handled by NIBS. This is made possible through our consensus procedures, which have been refined this past year, and likely will continue to be refined.
- NIBS' Construction Criteria Base provides a major system to aid the transfer of technology. It is available to support tech transfer centers of the National Institute of Standards and Technology.
- NIBS is embarking on important ventures to advise Federal agencies on the development and assessment of performance oriented criteria to more effectively meet their building needs. Agencies such as the Public Building Service, the Naval Facilities Engineering Command, the Environmental Protection Agency, and the Federal Emergency Management Agency recognize the excellent value of such cooperative programs carried out by NIBS.

For the fifth year the Institute, through private sector contributions, qualified for the full amount of $500,000 matching funds generated by the Trust Fund created in 1984 under Public Law 98-396. As you know, this Trust Fund was established using $5,000,000 of the $10,000,000 of funds authorized by the Institute's enabling legislation and not otherwise appropriated. The private sector continues to support the Institute with cash contributions and with many thousands of hours of voluntary expertise worth several million dollars each year.

We now ask that the sunset provision be removed from the 1984 trust fund legislation. This will provide a sound and equitable funding base to assure that the Institute has the capacity to advise the Congress and Federal agencies on critical matters of building science and technology. In order to justify our request, it is incumbent upon us to demonstrate the benefit to the public, of our past and current programs. While precise documentation of the dollar value benefit of the Institute's work is not possible, the following illustrate the value of several NIBS' programs:

Asbestos.—NIBS' widely recognized guidance document, Asbestos Abatement and Management in Buildings, Model Guide Specifications, provides the maturing and rapidly growing asbestos abatement industry with technical guidelines upon which to base the highly detailed and costly process of abating asbestos hazards in buildings. Users agree the guide provides a much needed level of quality and consistency unavailable elsewhere at the time the guide was published in 1986, when the second edition was published in the summer of 1988, and today.

In addition to serving as a useful and expert tool to improve quality and help to assure safety, the Guide reduces the time needed to produce specifications for a typical asbestos abatement project from an estimated 40 hours to about eight hours. At an hourly rate of $100, including indirect costs, this savings amounts to roughly $3,000 per project. The EPA estimates that nearly 750,000 U.S. buildings contain asbestos. If 5,000 abatement projects are carried out every year, there is potential for a $15 million annual savings. If the nearly 4,000 copies of the guide already disseminated have been used for an average of just three projects each, the savings already realized amounts to nearly $40 million.

Accounts about improperly conducted asbestos abatement projects abound—projects over budget, projects that have delayed school openings, projects that have resulted in contaminated buildings, projects where it has been alleged that workers or occupants have been exposed to unhealthy fiber levels. Proper contract specifications could have prevented virtually all of these by providing clear and complete communications between the owner and the abatement contractor. For example, a $100,000 abatement project could result in a $200,000 clean-up cost if the building is contaminated by improper work practices. Additional costs stemming from liability damages might exceed this amount by several multiples. Unfortunately, such catastrophes are not uncommon. With the rigid schedules mandated for school abatement, the opportunity for continuing this trend is increasing. Based on government estimates of the number of buildings containing asbestos, the total cost of potential abatement has been estimated to be 75 billion dollars. Thus, the long term value to the nation of just this one technical criteria document could be 100 million dollars.

In 1986, the Institute contributed approximately $100,000 toward the development of the initial guide, and in 1988 $40,000 was devoted to the second edition. In addition, the NIBS staff took an active role during the past year in workshops and seminars, contributing to EPA programs, and disseminating information on the proper use of the Asbestos Guide.

Construction Criteria Base.—NIBS developed for the Naval Facilities Engineering Command and the Army Corps of Engineers an innovative electronic distribution method for efficiently disseminating extensive Navy and Army technical construction criteria to architects, engineers, and other building community members. In addition to being a new and efficient way to transmit thousands of pages of standards, specifications, and design and technical manuals, the Construction Criteria Base (CCB) provides a number of productivity features unavailable up to now. For example, the entire CCB data base can be searched for terms through the built-in full test search and retrieval system. This enables designers and government reviewers to instantly access portions of relevant technical documents. In addition, the system includes an advanced computerized specification processing program developed by NASA and NAVFAC that will reduce specification writing time through automation and guard against errors in the contract specifications through its built-in quality control checks.

The CCB is stored on a laser disk known as a CD–ROM. The system also includes technical criteria from NASA, the Veterans Administration, and the Bureau of Reclamation. Plans are to add criteria from the General Services Administration, HUD, the Department of Energy, and other agencies. In addition, we are currently working to add private sector standards, model building codes, and guide specifications to increase the system's value to a wider audience.

Based on preliminary estimates, the system will save the Navy and the Army more than $10 million per year on printing and distribution costs alone. A 5 percent savings on design costs resulting from more efficient access to government requirements is expected to amount to an additional savings in annual design fees of $12 million. If an extremely conservative estimate of only a 1 percent savings is realized through improved construction quality, fewer change orders, and faster building delivery on the total annual Navy and Army construction cost of $4 billion, the resulting savings to the nation would be in excess of $40 million each year. Similar savings by the other Federal agencies could equal this amount. This $62 million savings is the result of a 2 year cooperative effort by about a dozen dedicated public and private sector professionals.

The value of the CCB program should not be measured only in dollars. The resulting cooperation and coordination among the construction arms of Federal agencies alone can result in improved productivity by sharing superior up-to-date technical criteria. In 1988, the Institute contributed more than $100,000 to support this program during its first full year. It is vital that programs such as these continue.

Guidelines For Protection Of Wood Against Decay And Termite Attack.—In the United States, an estimated $750 million is spent annually to replace wood in buildings that has been severely damaged by decay and termite attack. Appropriate protection is available through the use of pressure treated wood, soil treatment, the use of naturally durable species, and a variety of other construction techniques and practices. The recently published guide cites the advantages, geographical variations, and appropriate procedures for implementing these techniques. Experts on the Institute's Wood Protection Council estimate the value of widespread use of this document to be as much as $500 million dollars per year. The Institute's contribution of more than $27,000 to the Council's efforts was made possible through general support contributions and the trust fund.

THE INSTITUTE'S TRUST FUND, A PUBLIC/PRIVATE PARTNERSHIP

In authorizing NIBS in 1974, the Congress recognized the need for an organization to provide an interface between government and the private sector to improve the building regulatory environment and facilitate the safe introduction of new building existing products and technology. Through NIBS, the Federal Government entered into a public/private partnership to develop and apply findings on technical and regulatory building related matters for the public benefit.

Through NIBS' authorizing legislation, the Congress made a commitment to support the improvement of the nation's building regulatory environment. Buildings are constantly under attack by the forces of man, economics, and nature—earthquakes, wind storms, corrosion, etc. Programs to strengthen our buildings against these forces demand, at a minimum, continuing current funding levels. NIBS, as a public/private partnership is effectively serving all segments of the building com-

munity—federal agencies, industry sectors, the general public, the Congress, and state and local governments. These programs must continue as more than a one-time effort.

When the Trust Fund was established, a 5 year sunset provision was added to provide that the appropriation would revert to the Treasury on October 1, 1989. Based on what NIBS has accomplished before and during the period of the matching funds program, the Institute, its members, and supporting organizations firmly believe the sunset provision should be eliminated, allowing the program to continue to enable this working partnership to endure. This will be a signal from the Federal Government to the private sector that the government recognizes that the public/private partnership is viable and working. Proceeds from the matching funds program afford the Institute the ability to give sound advice on matters of building science and technology to agencies, the Congress, and others, and to assure continuity for multi-year projects.

USE OF TRUST FUND PROCEEDS

Two years ago the Institute's leadership proposed the study of four projects. The projects on housing rehabilitation and factory built housing were completed and reported on last year. The programs addressing foreign influences on the U.S. construction process, and land use criteria continued through fiscal year 88 and into fiscal year 89. To date, total expenditures on these four projects have amounted to nearly $470,000.

HOUSING REHABILITATION

As a result of the preliminary report of the Housing Rehab Task Force, the Institute has proposed a study to evaluate the parameters of an incremental rehab code which is designed to lower the cost of rehabilitating existing buildings for residential use. The concept is seen as a cost reducing technique to provide more residences for the homeless and for low and moderate income families. It would speed the delivery of such housing by allowing occupants to complete portions of the work. This approach is intended to save money and give those living in the units a sense of ownership and pride in their environment. The nation's 1.7 million vacant houses and buildings provide one primary resource for the program which will promote more value for the limited funds available through governmental and private housing programs.

FOREIGN INFLUENCES TASK FORCE

In fiscal year 88, NIBS continued its examination of the effect of foreign activities on the nation's building process. The study is broad-based to place the technological and regulatory issues in an accurate perspective.

The Task Force has drawn a number of observations which demonstrate why foreign influences may not be as serious as initially perceived. In fact, the question may not be, are foreign influences a threat, but rather, are they an opportunity? Some preliminary findings to those questions are:

- The U.S. can offer better living environments because we do not have to design within extensive controls dictated by adverse local conditions, such as extreme poverty and the lack of adequate building materials. This indicates that the flow of housing trade may more likely be in the form of exports rather than imports. We can improve our own housing by studying foreign housing designed for such constraints as lack of land, or severe earthquakes.
- U.S. housing producers can learn more efficient housing production from foreign competitors, particularly in the areas of vertical integration of production processes, regulatory efficiency, and use of dimensional modules.
- Current Japanese construction practices, particularly building techniques, methods of documentation, and site testing are less efficient than methods used by American construction companies, and thus preclude the possibilities of a major foreign incursion in this sector of the building industry at this time. However, their research into robotics and automation in the construction process may reverse this U.S. advantage in the future.
- R&D must become an integral part of a national long term strategy if the U.S. building industry is to maintain technological leadership. This will require increased funding for research, more collaboration among research institutions, more cooperation and coordination between the public and private sectors as practiced in other countries, and better technology transfer of re-

search results into the private sector. We need to further study the structure of public/private research abroad.

- Some states are actively encouraging foreign investment. Such a trend indicates the effect of partnerships with foreign nationals may be as important a question as competitiveness.

LAND USE TASK FORCE

Past NIBS studies to identify the primary opportunities to reduce the cost of new housing pointed to the high and increasing cost of residential infrastructure—roads, water and sewer lines, open spaces, and parking. NIBS has produced the final draft of a handbook of land use guidelines to help address this problem. Based on the contributions of NIBS' volunteer Land Use Task Force of professional planners, architects, Federal and local regulators, and builders, the guide will be particularly useful to local governments, especially to citizens serving on zoning commissions which govern the local land development approval process. The guide will describe innovative land use/zoning methods, parking and street width criteria, durable and less expensive features for utility systems, and open space techniques. It will enable local citizens and planners to evaluate and consider environmentally sound cost saving techniques successfully employed in other communities.

WORK FOR FEDERAL AGENCIES

During fiscal year 1988 the Institute performed work under contract to agencies over which your Subcommittee has oversight, and other Federal agencies involved in construction. The Institute continues to maintain contact with the various departments of these agencies. The following lists the cost of work done during the last fiscal year and that budgeted for fiscal year 1989:

Contract/Agency	FY 88 actual	FY 89 budget
CCB Research, Navy	$15,285	$602,177
Asbestos Conferences, EPA	14,199	
Facility Start-Up, VA	62,362	
NIST Research Agenda, NIST	17,242	25,000
BTECC Program Plan:		
DOE	23,652	
NJIT	15,769	
BSSC Lifelines, FEMA	58,592	
BSSC Phase IV, FEMA	225,775	183,009
BSSC Phase V, FEMA	268,926	264,842
BSSC Phase VI, FEMA		190,527
Lead-Based Paint, HUD	19,956	112,000
Modular Housing Project, HUD	50,000	
Courts Design Guide, AOUSC	28,089	39,587
Anticipated New Contracts, Varies		119,855
Totals	$799,841	$1,536,997

These agreements provide excellent value for the government. NIBS' consensus procedures assure the resulting research can be effectively used and that criteria and regulations emanating from our efforts can be met by the building community. Further, technical and practical contributions by knowledgeable and experienced NIBS committee members are benefits unavailable through other means. Although these agreements provide extremely useful results, in recent years many have primarily served to respond to crisis problems facing agencies. While these are serious and real problems, solving them seldom results in solutions applicable to national needs. Thus, they are not effective substitutes for the longer term programs supported by the proceeds from the matching trust fund. A dependable funding base is needed to effectively plan and carry out long term programs that will anticipate, rather than react to, today's avalanche of indoor environmental problems, housing needs for the disadvantaged, a deteriorating infrastructure, and outdoor environmental hazards such as earthquakes.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

For the fourth year NIBS is developing building community-recommended research topics appropriate for action by the National Institute of Standards and Technology's Centers for Building Technology and Fire Research. NIBS has surveyed its members, and other building professional and trade organizations and individuals with knowledge and interest in the building research capabilities of the NIST, and is developing specific research recommendations in the areas of building environment, building materials, structural engineering and fire safety. Specialists in these four areas met earlier this month to prepare specific comments and recommend priorities for more than 70 separate projects. Detailed recommendations will be submitted to NIST in May.

BUILDING SEISMIC SAFETY COUNCIL [BSSC]

The primary goal of the BSSC, which was organized in 1979 under the auspices of NIBS, is to reduce risks to life and property from earthquakes. It does so by developing, and stimulating widespread use of, improved provisions for the design and construction of new buildings.

Although large earthquakes are infrequent in the United States, they do occur and the potential life loss and economic disruption as a result of such an earthquake is very great. Indeed, 70 million Americans in 44 states are constantly at risk from moderate to severe earthquakes. These are sobering statistics given the many lives lost and the devastating economic effects of recent earthquakes in Soviet Armenia, Mexico, Nicaragua, and China.

The chance of a major disaster is especially great in the central and eastern United States where the largest recorded earthquakes have occurred and where very little has been done to seismically harden buildings. FEMA has estimated that if a 7.6 Richter magnitude earthquake similar to those that occurred in 1811–12 in the Midwest's New Madrid area were to occur today, more than 2,500 people, including 600 school children, would die from structural failure in buildings. In Memphis alone there would be twice as many injured as there are hospital beds, and nearly 250,000 would be left homeless. If the five other large cities near Memphis are considered, the death toll would exceed 4,000 with 460,000 left homeless.

In economic terms, such a quake would have far-reaching and devastating effects in terms of property damage and lifeline and business disruption. In addition to the collapse of buildings with the attendant fires, the failure of bridges and other transportation facilities, gas and oil pipelines, water mains and sewer lines, electric and communication systems, and toxic substance containment facilities would create a level of disruption unheard of in this nation. Further, the economic cost of the disruption of business operations could amount to as much as ten times the direct business loss due to structural and merchandise damage.

Others have estimated that if such an earthquake occurred in a major computer, telecommunications, shipping or energy center, the effects on the national economy would be devastating. Because of the complex network connecting the nation's banks, massive loan defaults resulting from earthquake damage, bankruptcies, or data-transfer failures in one location would rapidly affect banks and could seriously disrupt the nation's economic activity. If damage reached $50 billion (a major quake on the San Andreas fault is estimated to cause $62 billion in damage), the flood of claims could wipe out a major amount of the insurance industry's capital.

Although questions always remain with respect to such estimates, all can agree that the potential for disaster exists. One approach is to utilize in all new construction up-to-date provisions for seismic resistance so that, over the long term, the nation's built environment will resist structural collapse as a result of earthquakes. The Institute's Building Seismic Safety Council, with funding from FEMA, has produced such a set of provisions that have the consensus approval of the building community. The National Earthquake Hazard Reduction Program (NEHRP) Recommended Provisions for the Development of Regulations for New Buildings are intended primarily to preserve life by preventing structural collapse and to keep essential facilities such as hospitals and emergency response centers functional. Based on an analysis of economic data generated as a result of a trial design effort, the BSSC has estimated that application of the NEHRP Recommended Provisions will increase the construction costs of a building only about an average of two percent. Although other measures taken to prevent property damage will increase the design and construction costs more, this may be a very small price to pay given the potential for disaster. The value of BSSC's work and respect for its products are evidenced by the Soviet Union's seeking our design provisions for use in rebuilding earthquake devastated Armenia.

With respect to the lifelines area, a recent NIBS panel has recommended a comprehensive national program to address the danger posed by natural hazards—primarily earthquakes. It recommended that during the initial 6 years of program implementation, activities be undertaken to mitigate the seismic hazard to lifelines that will require, as a minimum, funding in excess of $10 million—again, a very small cost to begin to ameliorate the potential for widespread disaster as a result of lifeline failure.

NIBS hopes that Congress will support the lifelines effort by making available at least the minimum amount of funds needed initially and that it will have the foresight to continue to support later stages of the lifelines program as well as other seismic hardening work. Although such efforts will require many millions in funding over the next decade and beyond, their successful completion should ultimately provide the nation and its citizens with a reasonable degree of protection from the enormously devastating social and economic effects of earthquakes.

MODULAR HOUSING STUDY

In January, 1988, NIBS formed a Project Committee to identify feasible alternative systems for implementing a voluntary preemptive code for modular housing. The program was carried out in response to Congressional direction in the 1987 Housing Bill. The committee developed four alternatives for implementing a national modular housing regulatory program and identified pros and cons for each. The committee also agreed to a unified approach for a life-cycle energy standard. All of the alternatives address administration, codes and regulations to be used (and their interpretation), certification methods, third party approvals, siting and transportation, handling consumer complaints and implementation. The completed report was sent to the Congress in August, 1988. The cooperation and constructive contributions provided by the committee members is a good example of the positive and timely response to a controversial issue possible through NIBS' consensus process. Major national organizations have already begun announcing their positions favoring one or another of these alternatives.

U.S. COURTS DESIGN GUIDE

NIBS recently completed a technical assessment of requirements for a design guide for U.S. courts that meets current and projected needs. The resulting recommendations are now being considered by a special committee of the U.S. Judicial Conference. The study recommends major improvements in ways to communicate programming and planning parameters to design professionals in order to assure adequate performance. Significant cost savings would result if the recommendations were implemented.

BUILDING THERMAL ENVELOPE COORDINATING COUNCIL [BTECC]

This NIBS Council was formed in 1982 to promote cooperation between the public and private sectors of the building community in research and development of efficient building envelopes. In 1988, BTECC finalized the third edition of the National Program Plan on the Thermal Performance of Building Envelope Materials and Systems. The plan presents a compendium of research needs for improved practical standards for energy conservation. It is an excellent resource for public and private research organizations in their efforts to more efficiently allocate scarce research dollars.

In 1988, proceedings were published of BTECC's Program Planning Workshop on Building Air Infiltration and Ventilation. As an outgrowth of this program, in 1989, BTECC and NIBS plan to start a 2 year effort to provide technical review and comment on technical guidelines for envelope design being written by the National Institute of Standards and Technology. Later this year BTECC plans to address the need for a tracking system for research and publications about thermal envelope materials, and it will sponsor workshops on building heat flow measurement and the prevention of condensation damage in housing.

The nation's fragile fossil fuel supplies underscore the continued need to use energy more efficiently in the heating and cooling buildings. BTECC's programs continue to receive both public and private financial contributions in support of these needs.

LEAD-BASED PAINT ABATEMENT

In April 1987, an Institute task force recommended a strategy for responding to lead hazards in public housing. In 1988 and 1989, a NIBS project committee devel-

oped technical guidance for testing and abating lead-based paint in housing. The six month effort, funded by a HUD contract, successfully reached consensus under NIBS' procedures. However, the need for agreed upon health standards for use as the basis for worker protection and clearance testing, administrative guidance for housing authorities, and less costly abatement techniques emerged as critical and divisive issues during the project. NIBS considers these guidelines an interim step in this complex environmental problem. Lessons learned by this project highlight the importance of cooperative efforts among the nation's public health, scientific and building communities to agree on basic health standards before attempting to develop construction solutions.

ASBESTOS ABATEMENT

In 1988, the Institute published the second edition of its Asbestos Abatement and Management in Buildings, Model Guide Specifications. Regarded as the nation's authoritative and comprehensive guide specifications addressing options for asbestos control in buildings. It is often used as a text for abatement design classes. The Institute now is in the process of adding sections to deal safely and economically with nonfriable asbestos, such as roofing and flooring in buildings.

FIRE HAZARDS RESEARCH

In response to a growing public concern in several states about toxic smoke in building fires, the Institute in 1986 convened a meeting of well informed scientists and fire experts from the public and private sectors to examine "state-of-the-art" technology in fire and life safety practices. The purpose was to provide an overview of related issues complexities and controversies. Current levels of computerized fire modeling were reviewed and considered to be promising but premature for practical use.

The attendees, recognizing that several states were seeking, or planning to seek, legislative remedies, all with differing requirements, recommended that the Institute undertake the development of a new performance based test to measure the potential combustion toxic hazard of building products and building contents. The objective is to submit the proposed test method and supporting data to the voluntary consensus standards process so that all parties could adhere to a nationally recognized uniform standard.

The Institute's Board of Directors endorsed the recommendation, and set out to secure funds from the private sector to help defray the costs of the three-year project. Public entities at Federal state and local levels joined the effort by contributing technical and practical advice.

Altogether some 150 people have participated in the Project. Southwest Research Institute was selected to carry out laboratory experiments identified by a working group of seven outstanding individuals selected from the steering committee. The initial assignment to develop and perfect the test apparatus and test 20 different product configurations is substantially complete. The resulting data and verification by several professional laboratories will provide the basis for standardizing the test method for reference by design professionals, product manufacturers and regulatory officials.

The new performance test marks a "breakthrough" in fire testing technology by correlating, for the first time, three primary fire characteristics—time to ignition, rate of burning, and toxic potency. Several states are awaiting final adoption by the relevant standards organization.

Through this volunteer effort, the Institute with its unique capacity to bring public and private forces together in common effort has served the public interest in a most efficient and cost effective way. Twenty sponsors and the Institute have funded the costs of the $400,000 project. In addition, thousands of man hours have been contributed by volunteers from both public and private organizations. By comparison, the National Electric Manufacturers Association alone spent more that one million dollars to meet the test requirements of just one state, New York, and the resulting information about their products is not useful for regulatory purposes. The NIBS test method can be used on building products, furnishings, and other building contents.

WOOD PROTECTION COUNCIL

Much of the excellent value of this NIBS Council, formed to promote the development and use of safe and effective means for protecting new and existing buildings from damage by wood destroying organisms, has already been described. In addition,

the Council held a three day conference in October, 1988 which examined the latest and safest methods in wood protection and related environmental issues.

FUTURE PROGRAMS

In addition to current projects and new efforts already described, the Institute expects to begin work on the following programs during the remainder of 1989:

- An assessment of the technical criteria used by the General Services Administration's Public Building Service; including recommending the most appropriate ways to use local regulations, model building codes, and other privately produced criteria.
- Providing constructive building community review and comment on the EPA's forthcoming radon standards for new building construction.

SUMMARY

Madam Chair, on behalf of the members, the staff, and the board of directors of the National Institute of Building Sciences, I thank you and members of the Subcommittee for the privilege of testifying before you. The Institute has become an integral and important element of the building community and we hope this subcommittee will look with favor on maintaining the excellent partnership with the private sector by eliminating the sunset provision and continuing the matching trust fund. The Institute's programs are vital to improve and preserve the nation's built environment. NIBS, in the spirit of the public private partnership established by the Congress in 1984, is working effectively in the public interest to achieve those goals.

This concludes my prepared testimony; we welcome your comments and questions.

LEGISLATIVE HISTORY OF SUNSET PROVISION

Senator MIKULSKI. I'm going to move into my line of questioning here. Please understand when we ask these questions about the sunset provision, we're not talking about the quality of work; obviously, it is impressive. But as I understand what Congress did when it initially set up the funding mechanism for NIBS, it was to be done with the understanding that you would become financially self-sustaining through grants, contracts, et cetera; that back in 1974 and then for fiscal 1976, what was authorized was an appropriation of $5 million in fiscal 1975, $5 million in fiscal 1976, for an initial amount of capital.

In 1984, Congress created this 5-year trust fund to provide the Institute with up to $500,000 a year based on matching dollars contributed in the previous year from the private sector, with the fact that it would be sunset, with the understanding that by this time you would be a self-sustaining entity. That's the legislative history.

So when we talk about should we or should we not sunset, it is not related to the quality of work, the dedication of your staff, the operations. It's where do we come in and where do we then terminate. And that's really the point of my questions.

So do not take it as a criticism of agency or so on. It's obvious that you've not been laggers. I've got some questions about some things, maybe how they were done, or done differently or so on. But please understand that.

DEGREE OF SELF-SUFFICIENCY

As I understand, the Reagan budget for fiscal 1990 proposes to reauthorize NIBS, but to finance it without earmarked funds. And my questions to you are then, do you expect the Bush Administration to propose some other changes? Where are you in terms of your self-sufficiency? And why would you need us to continue

beyond the sunset provision, when the intent was that you become self-sustaining and self-sufficient?

Mr. BECKET. First of all, the sunset provision was added to the trust fund at the time it was finalized by the Senate, but the sunset provision was not part of the initial concept as conceived by the chairman of this subcommittee in 1984. If NIBS wasn't a success, then obviously the trust fund should be sunsetted.

Just last year, Senator John Chafee, who had added the sunset clause, thought we had done exactly the right job. Senator Chafee wrote such a letter to Jake Garn, saying that he thought the sunset provision should be removed. We can give you a copy of this letter if you would like.

Senator MIKULSKI. We'll be happy to accept a copy of the letter. I know that they have not acted on it.

But why aren't you self-sustaining and self-sufficient?

Mr. BECKET. With the trust fund, we believe that we are self-sustaining according to our authorizing legislation.

Mr. GUY. Madam Chair, you quoted the original legislation very accurately. But what happened was that it wasn't carried out that way. The original authorization for $10 million was not appropriated, and the concept for NIBS to become self-sustaining was based on having $10 million of capital to get the program, which is very fragile, set up on the balance.

We received the first $5 million. The second $5 million that had not been appropriated was provided as the principle for the trust fund 5 years ago. It is our understanding that the intent was when the Congress changed its mind about appropriating the full $10 million and decided to set up the second half in a trust fund, initially it was intended to be a perpetual trust fund.

PURPOSE OF 5-YEAR SUNSET PROVISION

Part of the fragile nature of NIBS is that it be perceived in the private sector and among local governments and everywhere as balanced. And the capital from the Congress is a critical element of that balance. At the time that the trust fund was created, Senator Chafee suggested that rather than making it perpetual, that this 5-year sunset provision be added so that NIBS would have to come back at the end of 5 years and Congress would get another chance to see whether or not we were doing what we were supposed to.

It is our feeling that under the purpose and under the concept of the original legislation which said $10 million of capital would be provided from the Congress, we are self-sustaining. We have operated on that basis. Whether it's a trust fund that the Congress administers or whether it was a trust fund as originally intended that we would have administered ourselves, with the balance of funds coming from contracts and grants from the public and private sectors, and, as Mr. Becket mentioned, from the several million dollars of volunteer man-hours and expertise from the private sector, we believe that we really are self-sustaining. But if we had the trust fund part of our balance taken away from us, then it would put us in a different posture, and that's what we are concerned about for next year.

Senator MIKULSKI. I think we're talking about the 1976 authorization, but the 1984 authorization and this essentially, for want of a better word, endowment or trust fund was meant to catch up or to put you on a different footing because of exactly what you said. We set you up in one way and had to operate in the other.

But before my time expires and I turn to Senator Kerrey, let me say this about the budget submission. You are the only agency under this subcommittee's jurisdiction which doesn't provide us with a budget justification. It is hard for us to be in a position to determine whether the trust fund should be continued when we don't have a budget plan.

Will you be able to provide the committee with the fiscal year 1990 budget?

Mr. GUY. Yes, ma'am.

Mr. BECKET. Certainly. We prepare one for ourselves.

Mr. GUY. We're not really an agency. We are a nonprofit organization, chartered by the Congress, which I guess is the reason we're different from practically everything else that you deal with. But we will be happy to share with you our budget proposals as they are developed.

Mr. BECKET. We develop one internally every year anyway, so we would gladly provide it, as we have every year in the past.

Senator MIKULSKI. We take your work very seriously and we take ours very seriously.

Senator Kerrey, I'm going to turn to you for your questions.

NIBS' INFLUENCE ON BUILDING CODES

Senator KERREY. Thank you. I have some questions I will submit for the record.

I'm trying to get a feel for who it is that uses the data that you're accumulating and the work that you do.

Does any of this impact on the development and the detail of local building codes?

Mr. BECKET. Oh, yes; very definitely. Our committees work with local people day in and day out to try and develop improved standards and codes.

Dave, do you want to expand on that?

Mr. HARRIS. Senator Kerrey, building codes and standards in this country are a little like an iceberg. Building codes reference thousands of standards that are developed by voluntary standards organizations. Thus, the standards are the part of the full body of building codes below the water line.

Our involvement with several hundred voluntary standards organizations and the three model building code organizations is to develop data and recommendations for changes in those standards and the codes to keep pace with technology and facilitate the safe use of innovative products. Many of the codes are performance-based, but performance standards are not available to quantify the performance of all building products and materials.

Let me cite an example. Radon is very much a concern in many States. The Environmental Protection Agency has been assigned by the Congress to develop radon standards for new building construction by June 1990. Their initial intent is to write one document

that would be the bible for local building code officials, local housing developers, and others to follow.

These standards that they would propose to write would address foundations, heating, ventilating and air-conditioning, water proofing systems, and so on. It would involve the methods by which we prevent water from getting into basements, basement floor slabs, the construction of crawl spaces, the components of houses that provide required performance for many needs other than radon.

We are proposing to work with the EPA to develop standards that consider the other performance needs of these components of the building to avoid many additional problems that may result from the EPA's knowledge of radon and lack of knowledge about other performance needs of buildings. This approach will make sure that the resulting standards will in fact best serve the Nation and the consumers rather than to develop the kinds of standards that might cause other problems, such as increasing in moisture in basements, the improper performance of heating and ventilating systems, and cracked foundation walls and floor slabs. Standards are needed to measure the permeability of water proofing on foundation walls to radon in addition to whether or not water will go through it.

Those are the kinds of programs needed to make sure that when we develop regulations, they are sensible and rational regulations.

Mr. BECKET. Could I expand just a moment on that? You may recall a few years ago, we had quite an upsurge in fuel prices and everyone said we've got to be energy conscious. We have to seal up buildings and homes so they will be energy-efficient.

Engineeringwise, you can accomplish that. But what happened is, the price of housing went out of the reach of many buyers.

We had to go back and get some sense in those rules and regulations. We had to reconsider the cost. Now we have to deal with bad indoor air quality, so you have to add mechanical ventilation to a house in order to get the fresh air needed to eliminate indoor air problems. All of a sudden you're in a catch-22, and that's the type of thing we're trying to avoid.

NIBS' BOARD OF DIRECTORS

Senator KERREY. I notice that the Board itself is composed of, what, 6 people appointed by the President and 16 elected? Is that the correct number?

Mr. BECKET. Fifteen are elected.

Senator KERREY. Fifteen and six?

Let's say I've got someone in Nebraska who is interested in running for election on your Board. How does one get elected to your Board? Who gets to vote?

Mr. HARRIS. Every year we solicit nominations for Board members.

Senator KERREY. From whom?

Mr. HARRIS. From the entire building community. It's not just among our membership. Anyone can apply. Anyone could submit a name for nomination, and we would certainly be glad to have you submit the name of someone from Nebraska for consideration.

The nominations committee from the Board of Directors and our membership review the nominees to identify the most qualified individuals to serve. The Board then elects from those nominated the slate to fill the vacating positions for that year.

Every Board member is able to serve a maximum of two 3-year terms. This keeps our Board revolving, keeps new people on the Board.

Senator KERREY. But who gets a ballot? Who gets to vote?

Mr. HARRIS. The Board of Directors vote on the 15. The President nominates and the Senate confirms the six.

Senator KERREY. The 15 that are on the Board vote for the new 15?

Mr. HARRIS. That's correct. All 15 aren't elected every year. Only five are elected annually. This process is consistent with our congressional legislation.

Mr. BECKET. It's overlapping.

Mr. GUY. The other point is we need balance, and our legislation identifies all the different sectors of the building community which need to be represented on the board. There have to be consumers represented; there have to be the materials people represented, the architects, the engineers, and the building codes people. So there are segments that have to be represented. The legislation also mandates that a majority of the board will be representatives of the public interest.

Senator KERREY. I've had some experience on the building side and I'm just trying to get a sense of how an architect or a builder might access this information you got and, moreover, how it might influence the shape of our communities.

Mr. BECKET. You have to understand, too, that on any given subject, let's say asbestos, NIBS project committees are comprised of from 30 to 60 or more experts.

The Board then looks at what the committees of experts have done and will generally approve what is developed over a number of months, if our procedures have been followed.

Senator KERREY. Do you get criticism from people who say, oh, this is just a construction-dominated deal, and the construction industry is trying to——

Mr. BECKET. We get criticism, usually on a subject rather than criticism of the group itself. Over these last few years, we've become the only level playing field there is for the building community to resolve problems for itself.

Senator KERREY. But are you actively lobbied or influenced or contacted by—I do not mean this in a pejorative way at all—by manufacturers of CDP or insulation or other sorts of things, people trying to get considered by you in a favorable way? Does that sort of thing go on?

Mr. BECKET. All manufacturers would prefer everyone to use their products. However, we try to develop performance criteria against which all products can be tested. This provides good tools for regulators and the market to use.

Senator KERREY. Your opinion matters. I mean what you all say about material influences what gets built out there in the communities.

Mr. BECKET. That's right. For instance, regarding fire toxicity, there are a number of product manufacturers that are concerned about their product and what it does under burn conditions.

Senator KERREY. Just let me cut right to the bottom line. I hear the clock ticking over here. If I am contacted by someone who says, there's a building code in my community that I think is just stupid, do I get hold of NIBS and bring it to your attention?

Mr. BECKET. You can do that. We hope to get to those individual building codes to help improve them. Actually, the proliferation of codes is probably the most difficult thing that we've been next to for the last several years. There are three basic building codes, and generally we can help, but it will take time.

Senator KERREY. But you influence building codes?

Mr. BECKET. We influence them dramatically and positively, particularly these last 5 years.

Senator KERREY. I'm glad somebody does.

LEAD-BASED PAINT

Senator MIKULSKI. I think the Senator raises some very good points. I'd like to follow up on that before I come back to a couple of the fiscal questions that we have.

You see, here's the way NIBS membership works, Senator. Generally, just to be clear, to be on a NIBS project committee—and that's where a lot of action is, like on lead-based paint abatement which I'm going to come back to—you have to be a NIBS member. But to become a NIBS member, you have to do it through a membership fee, which means you have to have the bucks to join NIBS.

So to get on a project committee, you essentially have to buy NIBS membership. The only other way to get on a project committee is to be invited by NIBS to be part of it because of your technical expertise, which we would think is great.

However, the people on these project committees are always outnumbered, so, essentially if you have the head of the Tenants' Councils of Public Housing of the United States, maybe a black woman who is trying to raise three kids and come out of public housing, if she's on this Board talking about lead paint and what it means, she's going to be outnumbered.

So I just want you to get a sense of the way this works. And it has caused a great deal of problems in the issue of lead-based paint. Sitting on this HUD Committee and also being very close to the lead paint abatement issue, we were very interested in what you were doing in terms of the lead-based paint issue. And I've got some questions that I really would like to go through with you, because I think it goes through this membership committee.

You were under a contract with HUD to produce guidelines on the safe and effective abatement of lead-based paint, no small task. Membership on the lead-based paint project committee could be purchased essentially, regardless of qualification considering the issue. The project committee was composed of disparate groups, including some members from the building science trade, whose very technologies were being evaluated during the work on your manual.

Now, wouldn't you say that that represented a conflict of interest?

Mr. BECKET. Membership fees of $35 for individuals representing the public interest and $50 for others were charged, but appointed committee members pay nothing. As to the exact content of the committee, I would have to go back to Jim Keck. As the chairman of the NIBS Committee, and head of those deliberations, I would like to have him answer it.

Mr. KECK. Senator Mikulski, you are absolutely correct in that there was a wide range of people represented on the project committee which developed the guidelines for HUD.

If, however, there was any conflict of interest in terms of someone promoting their own technology, I was not aware of any such promotion. There were certainly representatives from the private sector who are involved in the process of developing materials and equipment for lead-based paint abatement and they were participants. But I was aware of no actual promotion of products or equipment.

Senator MIKULSKI. But they were there.

Mr. KECK. Yes, they were. The NIBS membership concept was established by Congress. The concept intends that all sectors of the building community be represented. That is how a true consensus is developed. We have always tried to follow this concept in our membership and committee procedures.

Senator MIKULSKI. They've got a little thing they were pushing. I don't mean to say, and I won't—for purposes of the record, let's just say it was LeadCo or Happy Harry's Hauling Firm or something. They were still there on that committee, knowing what their technology was. And you mean to tell me they sat there and voted in a value-free mode?

Mr. KECK. I certainly can't comment on the motivations of those who were voting, but certainly I think the committee, from my point of view, was extremely well balanced, with probably the largest single segment of voters on the committee being representatives of and advocates of public housing groups, along with medical, health-related, industry-related persons as well.

Senator MIKULSKI. Well, let me go to that, because as I understand it, the public housing industry, including two major trade associations and seven health organizations concerned with children's health and workers' health and safety, dissented from the guidelines.

The dissenters included such groups as the Center for Disease Control and the Childhood Lead Poisoning Prevention Program. And I understand that they weren't included in—it's like a minority report in your report, your guidelines.

Mr. KECK. I'm sorry, I missed the final portion of your question, Senator.

Senator MIKULSKI. There is no minority report. You've got two major trade associations, seven health groups, one of which was the Center for Disease Control, who dissented with your very guidelines. The Center for Disease Control dissented with your guidelines.

Mr. KECK. I would like to point out, however, that the Environmental Protection Agency and about 40 other project committeee members approved the guidelines.

Senator MIKULSKI. But CDC didn't. And they had a valid viewpoint to be presented.

Mr. KECK. That is correct. And my understanding is, and I'll ask the NIBS Board members to correct me if I'm wrong, but my understanding is that all minority reports that were requested to be included in the document are being included in the document in essentially the form that they were submitted.

Mr. HARRIS. That is correct. There are three minority opinions, including the one from CDC. Dr. Faulk's objections to the report were really more of an objection to the process.

Senator MIKULSKI. Oh, really?

Mr. HARRIS. Not the NIBS process. Let me explain, please. Dr. Faulk is concerned that the Federal Government has not set goals and objectives for the overall Federal lead paint program. Is the purpose to save all lives, or some lives? Is it the purpose to restrict or eliminate lead in homes? Dr. Faulk raises some very important points that the Federal Government needs to answer if you expect a rational de-leading program in this country.

The concern is that there are a number of broad issues that go well beyond the development of a set of technical guidelines. Our objective and our assignment from the Department of Housing and Urban Development was to develop technical guidelines for testing, abatement, cleanup, and disposal of lead paint in homes. It was not intended to address detailed cost requirements and capabilities because the data are not now available to quantify costs or variations in costs across the country, nor was the purpose to develop standards for workers' health or health standards for quantifying the quality of an abated unit to make sure it's clean.

These are some of the areas where there are no standards, and most people on the committee agree that these are needed. Yet they are beyond the scope of our program.

I think it's important for us all to consider the need for a total program, and the NIBS guidelines are simply one element in that program.

Senator MIKULSKI. Well, I'd like to quote you from the Conservation Law Foundation of New England who, of course, expressed great concern, and they expressed it to Mr. Kohler, about the responses and why there was the negative ballot.

What is said in their material to you is they raised the issue related to—that:

> The guidelines failed to establish the medical justification for many of their recommendations. They are filled with categorical statements about the inadequacy of certain methods and the efficacy of others, many of which are not supported by documentation.

Later on he says:

> The failure to provide for thorough review of these guidelines by a greater number range of experts is extraordinary, given the importance of this document.

And it is to be the document providing the technical framework for lead paint abatement in this country, particularly in public housing.

The short time frame for preparing the guidelines precluded effective review by members of the project committee. More importantly, the committee lacked experts capable of evaluating the two most important unanswered questions: the relationship between recommended actions and public health outcomes and the cost of those guidelines.

What do you say about that?

Mr. KECK. Senator, regarding the content of the guidelines, I don't think that there was a single dissenting voice on the entire project committee that indicated that if the guidelines were followed carefully, that there would be any question that the risk of elevated lead blood leads in workers or children living in the properties, who are our major concern, would not be minimized.

I think the concern is a broader one that indicates that the committee was faced with the necessity of developing a set of, hopefully, safe and effective guidelines for the abatement of lead-based paint in the absence of Federal standards which define how much lead is safe for a worker who is carrying out an abatement, how much lead is safe for a child who is going to be living in that apartment after the abatement is concluded.

There was a great deal of controversy over this issue. I think that the document that has been produced is a document that says that if you are going to proceed with an abatement, here are the only ways that we know that it can be done without negative health impact upon workers and without negative health impact upon children.

The document does not address the issue of whether one should abate and what the priorities for abatement should be. As you point out also, the document does not address the issue of cost. To abate properly is costly; consequently, perhaps we should look at the question of whether we should proceed under the planned schedule with the number of abatements that are foreseen in the near future, or whether we should further prioritize those abatements based upon the current level of risk to the young children living in these public housing units and other units.

Senator MIKULSKI. Well, I must tell you we've received a great deal of comment on this and it has cast a pall over your report, not with us. I mean there is just a great deal now of reticence about this, and I am really sorry about that because one of the big tickets this committee is going to have to take a look at is the modernization of public housing and the rehabilitation of public housing. And one of the areas, of course, is where we as landlords are contributing to serious public health problems of our own kids. We are the landlord, and we needed really these guidelines. And now there are a lot of problems around it.

Mr. KECK. May I make one further comment, Senator?

Senator MIKULSKI. Yes, sir.

Mr. KECK. I agree with you that there are a lot of problems, but there are indeed thousands of abatements taking place out there every day. The research that's been done in places like the Kennedy Institute in Baltimore and in Massachusetts and St. Louis has indicated that many of those abatements are having exactly the opposite effect of what was intended; that is, they are leaving the environment more hazardous than it was when they started.

The people performing abatements out there are in desperate need of a set of guidelines that will show them how to safely and effectively carry out those abatements. This set of guidelines does that. They need to be improved upon; we need health standards. The question of how it is going to be paid for needs to be answered. But while we're answering those questions, abatements are going to continue. And if they are done improperly, they will poison children. These are a good set of guidelines, Senator.

FISCAL ISSUES

Senator MIKULSKI. Well, we could spend a lot of time on this. I need to move ahead to two other questions related to salaries and rent, and then we need to go to our other group.

Mr. Becket, salaries for professional personnel are increasing at the rate of 26 percent for professional staff, 23 percent for clerical. Why are you experiencing such significant increases, and if there is to be a substantial Federal contribution; that is, not sunsetting, why shouldn't you get the same 2 percent that every other Federal employee is getting at the request of the Bush administration?

Mr. BECKET. Louis, would you handle that?

Mr. GUY. Madam Chairman, the level of activity of NIBS has increased, and the level of contracts that we have, most of the work that NIBS is involved in are cost reimbursable contracts. The figure that you are referring to, I assume, is based on a 26-percent increase in a line item from one year to the next, but that is based on the actual expansion of the activities of NIBS. It is not a 26-percent increase for the same individuals.

One of the things that might have been a little bit misleading was that one year we had a number of people who did not serve the whole year, and now we are in a stable mode of operation where we do have the same people continuing. So it may look like the same number of people at a different cost, but the truth of the matter is that there have been no substantial raises.

The level of activity is difference in number of man-hours that is being charged.

John, our controller here, is that a fair statement?

Mr. LLOYD. Yes.

Mr. BECKET. Senator, we would be glad to provide more detailed documentation to clarify the percentage increases to your satisfaction.

Senator MIKULSKI. Yes. We see, for example—and this isn't to say that it's not deserved—but what we're facing, the President gets a 10 percent raise; the Director of Communications goes from a $16,000 job to a $40,000 job. Pretty good.

Mr. GUY. John, would you clarify that?

Senator MIKULSKI. Obviously they're communicating their worth.

Mr. LLOYD. In the schedule of salary changes which we provided, we segregated changes in the salary line item due to changes in personnel from salary increases. That historically was the purpose of the document which we provided.

When you commented that the president has a 10-percent salary increase, that's really misleading because the job was vacant for

part of the year. In fact, the president's salary hasn't increased in 4 years.

Last fiscal year we had a number of positions authorized by our board which were vacant for part of the year. As a result, the salaries that are indicated as our actual expense for fiscal year 1988 only reflect the part of the year these positions were filled. We have documented all those personnel changes in the materials which we provided for you.

Mr. GUY. For example, Madam Chairman, the Director of Communications, the position was vacant from November 1987 through August 1988, so the reason it shows a $16,000 actual expenditure in fiscal 1988 is because we didn't—it was a $40,000 a year position.

Senator MIKULSKI. But you only paid him $16,000.

Mr. LLOYD. For a partial year.

Mr. GUY. For a partial year.

RENT INCREASE

Senator MIKULSKI. Let's go quickly to your rent because we have to go to the Credit Union. Your rent is going to increase by 20 percent. Why is that?

Mr. GUY. We are at the position of our lease expiring. As a nonprofit organization, we're on the open commercial market for our rental space. We have contracted for a new lease, a little bit farther away from downtown, at a lower square footage. We had to budget for enough space. Since we are now going to be locked into this for some time frame, we've got a 5-year lease with a 5-year renewable option at the end of that, but we did find space that was cheaper and space that had some growth room in it.

We feel very good about it. We evaluated all the options that we could find within the general area and even looked very hard at trying to locate in the National Building Museum, but came up with the best and most economical solution we could find.

Senator MIKULSKI. Are you going to be in the District of Columbia or have you looked in the suburbs as well, both of Northern Virginia or Maryland?

Mr. GUY. We discussed moving to the suburbs, and concentrated on looking in the District of Columbia primarily because our relationship with so many different organizations, we felt that with present circumstances, we needed to stay pretty central.

Senator MIKULSKI. Of course, the Pentagon is in Northern Virginia. They do OK.

Mr. GUY. Yes, ma'am. I live in Northern Virginia, too, so I'm aware of what is happening over there.

SUBMITTED QUESTIONS

Senator MIKULSKI. Well, there are many questions we could ask you, but we thank you for this and we will have some other additional questions for the record.

Thank you.

[The following questions were not asked at the hearing, but were submitted to the Corporation for response for the record:]

Questions Submitted by Senator Mikulski

SUNSET PROVISION

Question. The issue of the October 1989 sunset provision is, of course, extremely significant this year as October is rapidly approaching. I remain unconvinced that the Federal Government should have a special trust fund to finance NIBS' activities. Isn't it true that if the work you do is of high quality and accurate, Federal agencies like HUD, FEMA and GSA, as well as the private sector will be willing to pay for your work out of their own funds?

Answer. In the Institute's authorizing legislation, the Congress declared ". . . that an authoritative, non-governmental instrument needs to be created to address the problems and issues . . ." relating to building technology and the building regulatory process. The law also authorizes and encourages Federal agencies to request appropriations for grants to the Institute for its general support and to contract with the Institute. A host of Federal agencies have, and many currently are, contracting with the Institute. These contracts are for specific tasks to meet specific needs of the Federal agencies. Regarding grants to the Institute for general support, none of the federal agencies have requested appropriations for this purpose. The agencies all have their own specific missions for which they are seeking appropriations, and generally do not have the luxury of funding, from their appropriations, general support grants for the issues addressed by the Institute.

In most instances the agencies appear to have insufficient funds for their work. The trust fund provides money for the general support of the Institute which is matched by private sector contributions. As noted in our testimony, the $5 million which was appropriated to form the Trust Fund was intended to be the final appropriation against our original $10 million authorization. The Trust Fund was intended to be perpetual, and to ensure balanced, long-term funding for the Institute. We believe that the Trust Fund has been successful in that it has provided partial funding for such NIBS programs as asbestos, fire toxicity, lead-based paint, land use criteria, and housing rehabilitation.

Question. What do you do that the National Institute of Standards and Technology cannot do?

Answer. Congress declared in our authorizing legislation that the Institute be established as an independent, non-profit, non-governmental instrument which shall not be an agency or establishment of the United States Government. As part of our mission, we provide advice and recommendations to the National Institute of Standards and Technology on their research agenda through a consensus of the building community. The consensus process and the input from the various sectors of the building community is the keystone of the Institute, and this is not available from any government agency—federal, state or local.

Further, NIBS' consensus-based work is often precluded for Federal agencies by the Advisory Committee Act.

Question. HUD has a research office which is designed to come up with innovative new technologies to deal with housing and building construction. Why shouldn't you be working for them and agencies like them?

Answer. We have worked with HUD's Research Office and members of HUD's Research Staff participate in activities of the Institute. We have performed contracts for HUD, and in some instances HUD has contributed to jointly-funded projects undertaken by the Institute. The research budget for HUD has been drastically reduced over the years and their discretionary funding for outside advice and assistance has been severely restricted.

CONTRACT INCOME COMPARISON

Question. HUD is providing 6% of your total grant support (to produce lead-based paint guidelines for $112,000). Why isn't HUD providing more grant support?

Answer. We presently have a contract with HUD to produce lead-base paint guidelines. This is a contract for a specific task as opposed to a general support grant. The appropriations for HUD's research effort has been reduced over the years to the point that the office has had to reduce personnel and severely curtail outside expenditures. We understand the Division of Innovative Technology, Safety and Standards has been operating on a budget of about $500,000 during this period. Formerly, this group's annual budget was several million dollars. Thus, HUD has not had the funds to undertake programs for which the Institute could provide technical assistance. With the growth in interest and importance of lead-based paint, radon, asbestos, land use, and other issues of importance to HUD, we hope to resume the productive relationship held with HUD earlier in this decade.

It is interesting to note that for the Lead-Based Paint Guidelines contract, HUD had only $128,000 available to use for this important project. Since this was an extremely complex project, we had to undertake additional tasks not originally anticipated in the contract in order to produce a consensus document. For example, in order to follow our own consensus procedures, we had to address and resolve several minority opinions. Three of these opinions are included in the guidelines, which makes the guidelines a better document. However, NIBS had to absorb approximately $25,000 in additional costs to produce the best possible Lead-Based Paint Guidelines. Without our Trust Fund, these efforts would not have been possible.

Question. Your budget for fiscal year 1989 includes $120,000 in potential new contracts. Please describe these potential new contracts.

Answer. In preparing our budgets, we attempt to make judgments into the future regarding new contracts. The $120,000 figure was our best judgment at the time, and it anticipated the receipt of task orders to improve GSA criteria under an indefinite quantity contract with the General Services Administration, and funding from the Department of Defense to enhance our Construction Criteria Base Program. Both of these contracts have been received. In addition, the Administrative Office of the U.S. Courts has indicated they intend to contract with the Institute to update the U.S. Courts Design Guide.

All of this work is to provide specific services and is not a substitute for general support grants and the trust fund's proceeds.

GRANTS/CONTRACTS

Question. Last year's budget spreadsheet showed that you had budgeted a total of $1.12 million in grants and contracts for fiscal year 1988, yet I note in the current year spreadsheet that grants and contracts totalled only $800,113 in fiscal year 1988, a decrease of 28 percent below what was budgeted. Why were grants and contracts so far below what you had planned?

Answer. We have a relatively sophisticated budgeting process, but when it comes to estimating the anticipated contracts that we will be receiving from various Federal agencies, we can only use our best guess. In fiscal year 1988 we had anticipated receiving an indefinite quantity contract from GSA within that fiscal year. The contracting process with GSA took much longer than anticipated. In addition, we were expecting to receive additional funding from the Department of Defense, which did not materialize until the end of the fiscal year 1988. Also, several of our contracts are cost-reimburseable contracts, thus the income earned from those contracts simply replaces our actual costs. During fiscal year 1988, we were able to perform work on one of these contracts at a cost significantly below our original projection. Accordingly, our income from this contract was less than we had originally budgeted.

Question. I am disturbed by the fact that grants and contracts fell in fiscal year 1988 from $1,091,000 in fiscal year 1987 to $800,000 in fiscal year 1988, a decrease of 27%. Why did grants and contracts fall so dramatically.

Answer. Our contracting work, by its very nature, is cyclical. We are subject to the procurement process of the various Federal agencies, actions of the Congress on agency budgets and programs, and the needs of the agencies for our very specific and unique expertise and services.

Question. You have budgeted a total of $1,537,000 in grants and contracts for fiscal year 1989. How did you arrive at this figure?

Answer. Included in the financial material which we submitted to the Committee prior to testifying was a chart which detailed our fiscal year 1989 budgeted contract income by agency/contract. This information is summarized below:

Contract	Agency	FY 89 budget
CCB Research	NAVY	$602,177
NBS	NBS	25,000
BSSC Phase IV	FEMA	183,009
BSSC Phase V	FEMA	264,842
BSSC Phase VI	FEMA	190,527
Lead Based Paint	HUD	112,000
AOUSC Courts Guide	AOUSC	39,567
Potential New Contracts	VARIES	119,855
Total		1,536,978

With the exception of the potential new contracts, which we discussed above, all of the contracts included in our fiscal year 1989 budget have been received, and are funded for at least the amounts indicated. To date, we have received over $300,000 in new contracts for the year, so our estimate of potential new contracts will be exceeded.

SUBCONTRACTORS

Question. I am very concerned with the dramatic increase in spending for subcontractors. In fiscal year 1988 you spent $82,582 on subcontractors. You will spend $283,350 in fiscal year 1989—an increase of $200,000. Why is this happening?

Answer. In our authorizing legislation, Congress specifically noted that NIBS should utilize existing "private organizations and institutions, private industry, labor, and Federal and other governmental agencies engaged . . . in building research, technology development, testing and evaluation, standards and model code development and promulgation and information dissemination . . . whenever possible and appropriate to the purposes of this section." In accordance with Public Law 93.383, it has been our policy to contract out for services and expertise available in the marketplace. We maintain a small technical staff to act as project managers. These managers perform certain technical services but also coordinate, manage, and monitor the expertise of project committees and other organizations that we have under contract. The amount of subcontracting is cyclical, depending on the timing and work required for the various contracts.

It should also be noted that we use both consultants and subcontractors for our projects. During fiscal year 1988, total subcontractor and consultant costs were $386,000 or 48% of total contract revenues of $800,133. In fiscal year 1989, we are projecting a total consultant and subcontractor expense of $487,000 or 32% of our projected contract revenues of $1,536,976. Our use of subcontractors includes procedures to take advantage of cost efficiencies as well as insuring that we obtain high quality professional services.

NIBS EXPENSES

Question. In last year's budget for fiscal year 1988 you projected that revenues would exceed expenses by $25,000. However, you fell short of this projection—and ended up with a deficit of $42,000. How do you explain?

Answer. Unlike Federal agencies, the Institute is a private organization and subject to the forces of the marketplace. Other than the Trust Fund, we do not have a guaranteed stable source of funding. The reason why Congress originally authorized $10 million for the Institute was to ensure that we had adequate working capital to operate under market conditions without major disruptions.

Major portions of our funding come from contracts and grants, donations, membership, publication sales and seminar fees. Our budget is only an estimate of funds we will receive from these sources. We update our budget quarterly during the year to more accurately reflect current economic conditions, and are responsive to these changing conditions. Our original budget for fiscal year 1988 projected expenses of $2.4 million. Due to lower than expected revenues, we were forced to reduce actual expenditures to $2.2 million. These savings were almost enough to cover the short fall in expected revenues. During fiscal year 1988, the NIBS' Board took action to improve management to avoid continuing such losses which have worked very well during the past 12 months. The $67,000 difference between our original excess of revenues over expenses ($25,000), and our actual deficit ($42,000), is only 3% of our total revenue for fiscal year 1988.

MEMBERSHIP

Question. You are budgeting $124,250 in membership income in fiscal year 1989, a slight increase of $2,000 over fiscal year 1988. How many members do you have? [last year: 400]

Answer. The Institute currently has 546 members. In addition, we have 42 members in the Wood Protection Council; 110 members in the Building Thermal Envelope Coordinating Council; and 58 members in our Building Seismic Safety Council. Therefore, total membership equals 756.

Question. Please provide for the record the number of members you have had each year since the agency's inception.

Answer. Since our inception, we have made a number of changes in membership categories, and consequently the numbers are not comparable. Membership income provides a more meaningful comparison and is listed below:

Fiscal year:	Amount
1988	$122,026
1987	93,577
1986	106,690
1985	108,360
1984	144,506
1983	124,292
1982	122,862
1981	142,642
1980	115,246
1979	97,443
1978	0

Question. What does an individual membership cost?

Answer. As of January 1, 1989, the minimum dues is $75 for individuals in the public sector; i.e., government employees, consumer organizations etc. Individuals associated with industry organizations pay $150 per year for dues. NIBS' dues structure is set by the Board to encourage active involvement by building community members and we work very hard to hold down costs to join NIBS.

PUBLICATIONS

Question. You are budgeting $592,000 in publications receipts, an increase of 60 percent over fiscal year 1988. Please describe the publications you will produce and how you arrived at the figure of $592,000.

Answer. During 1987, the Institute received $148,000 from publication sales. This figure increased to $367,000 in 1988, and we project that publication sales will increase to $592,000 in 1989. This increase in publication sales is largely the result of the success of two publications, "Asbestos Abatement and Management in Buildings, Model Guide Specifications" and our Construction Criteria Base or CCB. To date, we have sold over 4,000 copies of "Asbestos Abatement and Management in Buildings." These sales have resulted in over $200,000 in income. During the Summer of 1988, we released the second edition of this document, and we project sales of $125,000 for the current fiscal year. As of the end of February, we have sold over $80,000 of the revised edition.

During fiscal year 1988, we began selling subscriptions to our Construction Criteria Base. The CCB is stored on a laser disc, known as a CD-ROM. Through this new and innovative technology, we are able to store thousands of pages of standards, specifications, and design and technical manuals, including the technical construction criteria of the Army, Navy, NASA and the VA. Last year, sales of the CCB totalled $275,000. We project sales of $423,000 for the current fiscal year. We believe sales for the CCB will continue to expand as we expand the program to include criteria from other government agencies, as well as private sector standards, model building codes, and private guide specifications. Through the end of February, 1989, CCB sales have totalled $328,000 of our projected $423,000.

In addition to the Asbestos Abatement Guide Specifications and the CCB, the Institute has a number of other publications available. or soon to be released. These include publications covering such topics as wood protection, land use criteria, national program plan for building thermal envelopes, radon, indoor air, foreign influences on the U.S. construction industry and modular housing, to name a few. Sales of these publications are projected at $44,000 for fiscal year 1989.

It is important to note that these receipts are offset by program and document development costs.

QUESTIONS SUBMITTED BY SENATOR KERREY

Question. In your packet of materials you have a listing of some 70-plus private supporters. Do private supporters tend to be one-time supporters or do they provide continuing support?

Answer. Most of our supporters are continuing supporters, although a few have discontinued support over the years. In addition, the level of support can vary from year to year. For example, some organizations have discontinued support due to their own financial hardships. Other organizations contribute directly to projects and activities that are of specific interest to them; i.e., fire hazards and toxicity, asbestos, etc.

It should be noted that the most valuable contribution made to the Institute is not necessarily financial. Rather, it is the thousands and thousands of volunteer hours

donated to NIBS by those individuals and organizations who believe that through NIBS the ability of the building community to serve the public is greatly enhanced. Without the support and active participation of our volunteers, NIBS could not serve the nation.

Question. Some of your studies are done under contract to other institutions. How many such contracts have you entered into? What criteria do you use to determine whether or not to undertake such contracts?

Answer. The majority of our studies are done under contract to other organizations—most notably the Federal Government agencies. Currently, we have eight contracts with various government agencies. We undertake only those projects that are appropriate for advancing the Institute's mission as defined by the Congress in the enabling legislation. All contracts must be approved by the NIBS' Board of Directors, and contracts coming to the Board for approval are first approved by an Institute committee that makes an initial recommendation. Many of the projects the Institute undertakes are controversial in nature, and it is appropriate to subject these to the NIBS consensus process, wherein we develop a consensus of the building community.

Numerous potential contracts have been disapproved by the Board because the services necessary were readily available from the private sector and consensus was not needed, or because the work was not within the NIBS authorizing legislation.

NATIONAL CREDIT UNION ADMINISTRATION

STATEMENT OF DAVID L. CHATFIELD, BOARD MEMBER

ACCOMPANIED BY:

WILLIAM C. POLING, BUDGET OFFICER

FLOYD A. LANCASTER, PRESIDENT, CENTRAL LIQUIDITY FACILITY

D. MICHAEL RILEY, DIRECTOR, OFFICE OF EXAMINATION AND INSURANCE

ROBERT FENNER, GENERAL COUNSEL

OPENING REMARKS

Senator MIKULSKI. We are now going to have testimony from the National Credit Union. The subcommittee welcomes Mr. David Chatfield, Board Member of the National Credit Union Administration.

America's credit unions have a proud heritage of serving the financial needs of our country. In fact, I'm proud to say that I helped start a credit union at St. Gregory's Roman Catholic Church when I was a social worker in the 1960's, a church in Baltimore's black community. We wanted to do something to beat out the loan sharks and went to the old-fashioned idea of neighbor helping neighbor.

We know that the credit unions have a rich history in our country and they enable neighborhoods and communities to invest in each other by providing capital. They began in ethnic communities like Baltimore as an alternative to those loan sharks who preyed upon people's financial woes by charging them the most outrageous and usurious rates in exchange for short-term loans, causing the poor not only to mortgage whatever they had, but to mortgage their future.

BUDGET REQUEST

The Credit Union Administration is one that serves many social classes, both the poor, the middle class, and those of means who have employers that have credit unions. The Credit Union Administration is requesting $864,000 for administrative expenses for its Central Liquidity Facility in fiscal year 1990 and a limit on direct loans from that facility of $600 million.

CDCU REVOLVING LOAN PROGRAM

In addition, the administration is proposing to abolish the community development revolving loan fund by transferring its unobligated balance to the Neighborhood Reinvestment Corporation to pay for salaries and expenses. I am troubled by this proposal and hope to explore its implications with the National Credit Union Administration.

We are very clear that our jurisdiction with you is specific and limited, though there are many questions we wish to ask you, and we are going to ask you to proceed with your testimony and whatever you would care to share with us.

By the way, I am sorry that Senator Jepsen couldn't be with us today.

Mr. CHATFIELD. Thank you, Madam Chair; I was about to make a comment in that regard. We appreciate the chance to be here, and I appreciate this opportunity to be here personally to appear before you and present a request for the NCUA Central Liquidity Facility. Senator Roger Jepsen, NUCA's Chairman, asked me to express his personal regret at being unable to testify today. He does hope to have the opportunity to visit with you in the near future regarding the CLF and other credit union matters.

With your comments, Madam Chair, and having been involved in a credit union as a director, I feel we share something in common. That was how I first began with credit unions, as a director of a small credit union 23 years ago, and I've been involved with them ever since. So I certainly share your understanding of the kinds of things that credit unions have been able to do.

INTRODUCTION OF ASSOCIATES

Appearing with me today, if I may, Madam Chair, starting to my left and to your right is Bob Fenner who is the General Counsel of NCUA; and seated next to me on my left is D. Michael Riley who is the Director of Examination and Insurance for NCUA; next on my right, Mr. Floyd Lancaster who is the President of the Central Liquidity Facility, a unit of NCUA; and next to him is Mr. William Poling who is the Budget Officer for NCUA. Herb Yolles, our Controller, was scheduled to be here, and I regret that he cannot be due to a death in the family. He had to be absent.

TESTIMONY HIGHLIGHTS

Madam Chair, I request that my testimony as presented to the committee be entered into the record. And if it's your pleasure, then I'd like to just kind of highlight that testimony.

Senator MIKULSKI. Without objection, so ordered.

Mr. CHATFIELD. Thank you.

For fiscal year 1990, we are requesting a $600 million limit on new loans with the Central Liquidity Facility. That requested limit has remained constant for the last nine years and has proven adequate.

Regarding the operating expense, as you indicated, we are requesting that the committee consider an $864,000 limitation, and this is a slight decrease in the amount that we have received approval for in the past.

I am pleased to report that although credit union liquidity is currently in good shape and there are no pressures on the credit union liquidity position, still the Central Liquidity Facility should be able to respond and be prepared to respond when liquidity becomes restricted.

Madam Chair, we respectfully ask that the subcommittee support our authorization request in order that we may respond quickly to changes in liquidity within the credit community.

I want to thank you again for the opportunity to appear before the subcommittee to present NCUA's request for the CLF or Central Liquidity Facility, and we are prepared to answer any questions that you may have.

[The statement follows:]

STATEMENT OF DAVID L. CHATFIELD

Madam Chair and members of the Subcommittee, thank you for this opportunity to appear before you and present our request for the NCUA Central Liquidity Facility. Appearing here with me today are Floyd Lancaster, President of the Central Liquidity Facility; D. Michael Riley, Director of NCUA's Office of Examination and Insurance; Robert M. Fenner, General Counsel; Herbert S. Yolles, Controller, and William Poling, Budget Officer for the Agency.

For fiscal year 1990, we are requesting a 600 million dollar limit on new loans. That requested limit has remained constant for the last 9 years and, I might add, has proven adequate throughout the period. Regarding the CLF's operating expense, we are requesting that the Committee consider an $864,000 limitation when approving our portion of the VA, HUD and Independent Agencies Budget. This is a slight decrease in the amount we have received approval for in the past.

I am pleased to report that credit unions continue to remain liquid. Although shares were up 7.5 and loans increased 14.2 in 1988 tightening liquidity a notch or two, there is still no major squeeze. The current loan to share ratio of 71% is nearly 20 points below what it was a decade ago. We anticipate moderate savings and asset growth for the fiscal year 1990.

When danger signs in credit union operations begin to appear, the Central Liquidity Facility should be prepared to respond, and we believe the Committee's authorization of a 600 million dollar new loan limit will remain adequate for fiscal year 1990. Prudent funds management by credit unions, coupled with the existence of a corporate credit union network, should continue to keep new loan demand well below our request.

At the close of fiscal year 1985, the CLF's outstanding loan portfolio balance was 222 million dollars. By the end of fiscal year 1986, it had been reduced 106 million dollars and closed at 111 million dollars for fiscal year 1987 and 120 million dollars for fiscal year 1988. The total loan balance should continue to remain fairly constant through fiscal year 1989.

Madam Chair, we respectfully ask that you support our authorization request in order that we may respond quickly to changes in the credit union community. By supplying emergency funds, the CLF bolsters public confidence during periods of liquidity strain.

Thank you for the opportunity to appear before the Subcommittee to present NCUA's requests for the Central Liquidity Facility. We would be pleased to answer any questions.

FINANCIAL INDUSTRY CONDITIONS

Senator MIKULSKI. Thank you very much, Mr. Chatfield. I do have questions specifically related to the revolving loan fund and the CLF direct loans which are so important because that's where our appropriation comes in.

But before I do, I have some questions related to the safety, solvency, and creditworthiness of our institutions. Being the Senator from Maryland, as you know, I lived through the demise of State-chartered S&L's. We now know that the Federal Home Loan Bank Board and the Banking Committee are taking a look at what happened with the S&L's. I want to be sure that the same thing doesn't happen with the credit unions, because if we don't have ordinary people saving small sums of money, we are going to have an

enormous capital shortage in this country. And they do it when they have confidence in their institutions.

EXAMINER STAFFING

That is why I would like to talk about the credit union examiners, again to be sure that we're inoculating ourselves against the kinds of things that have happened in other situations.

Last year Mr. Riley indicated that you had brought on board most of the 205 new credit union examiners that you had requested from OMB, but you were still short about 20 people. My question is, did you get those 20 people and how many examiners do you now have?

Mr. CHATFIELD. If I may, Madam Chair, we began the fiscal year for the first time fully staffed. We do have vacancies that occur, and many of those vacancies occur when journeymen-level examiners, those that are well-experienced, leave to enter the private sector, for the most part, to go to work for credit unions, and certainly we don't like to lose good people. But we do recognize this provides, in virtually every case, a higher quality of CEO or credit union management person. So that really helps the system overall.

But that's where a lot of the vacancies have occurred, but I will defer, if I may, to Mr. Riley who is in charge of that to talk about the current staffing level.

EXAMINER TRAINING COSTS

Mr. RILEY. Other than normal turnover, we're in pretty good shape right now in terms of our examiner staff and office staff. Our only minor problems that we had are bringing that many examiners on board so quickly. We had to spend quite a bit of money for training. We spent, I would guess, about $9 million just for training over the last few years, which is a lot in terms of a small agency like ours. It's our No. 1 priority.

Senator MIKULSKI. Excuse me. What did you just say? How much money?

Mr. RILEY. Over the last 3 years, we spent $9 million on training for our examiners in terms of our entire examination program. We have an agency of about 900, and that's a substantial part of the NCUA's budget, not the CLF.

Senator MIKULSKI. You have 900 and some new employees? How many of those are examiners?

Mr. RILEY. Six hundred, approximately.

EXAMINER RATIO

Senator MIKULSKI. And what is your examiner-to-credit-union ratio, and how does that compare with other agencies that are supposed to regulate financial institutions; specifically the S&L's and the banks?

Mr. RILEY. I don't know the precise number. I can give you an estimate. It's about 1 examiner for every 20 institutions. I believe OCC is about 1 in 1, and I don't remember what FSLIC or the Bank Board was.

Senator MIKULSKI. Do you feel that 1 in 20 is an adequate ratio to get out there and do the auditing that you need to do?

EXAMINER PROGRAM

Mr. CHATFIELD. If I may, Madam Chair, we do feel that now being fully staffed and having gone through the training of additional people, we have equipped them properly in the field. They have computers for their use, a core examination program that works with those computers, and are able to communicate with the main frame. There are a lot of things that have occurred to help properly train and equip those people.

I must say that we do have a policy which has been in effect since 1982, that every credit union is examined every year. That is still the case. I believe that this contrasts with some of the policies of some of the other organizations that aren't able to meet that kind of a schedule.

EXAMINER TO INSTITUTION RATIO

Senator MIKULSKI. We are interested in your progress. Last year you said you had a ratio of 1 examiner to 43 institutions. So you said it was 1 examiner for every 30 or 35, and now you are up to 1 for every 20. Is this the progress, the map of progress?

Mr. RILEY. Yes, for us. Again, we started at 1 for 43. I think we should remember, too, that most credit unions remain small. I would say 80 percent are still under $5 million in assets.

Senator MIKULSKI. Oh, I understand that.

Mr. RILEY. So I would say, I don't know if it's exactly 1 in 20. I'm trying to divide in my head right now, which I haven't been able to do. But we've gone from 1 for every 43 credit unions down to somewhere between, I would say, 1 to 20. I'm guessing it's closer to 20 right now because we're fully staffed.

CU CONVERSIONS

Senator MIKULSKI. Of course, I am interested in this issue where State-chartered savings and loans had to convert to a federally insured credit union. In my own State when MSIC had to go out of business, they either had to go FSLIC, merge, or join a federally insured credit union or liquidate if they weren't big enough or good enough. I know what they've done with FSLIC, though. And those are tough things to handle.

What are the criteria used to evaluate whether or not a State-chartered savings and loan could convert to a credit union?

Mr. RILEY. We would use basically the same criteria if a credit union was applying for a charter or applying for insurance. The S&L's in Maryland present a couple of things. Basically, their assets are fixed-rate real estate loans almost in their entirety. That is something that for us, we would like to see a little bit more match in the assets and liabilities.

Also, the corporate structure of an S&L in most banks is vastly different from a credit union. The credit union generally says if you have one $5 share, then you have a vote, and no matter how

many shares you have in a credit union, it's democratically controlled.

The S&L's basically, the more shares you have, the more deposits you have, and the more control you have over an organization. So when we look to qualify a credit union, they would have to meet all the things that make a credit union unique, and that's its corporate structure, its democratic control, its safety and soundness, and we would have to assure ourselves that we would not be insuring something that we wouldn't insure in our other credit unions. We insure approximately 15,000, and we want to make sure that our funds stay safe and sound.

So those are the things, quite honestly, to look and make sure that the activities that anyone is involved in are the things that we feel are a good risk for us.

S&L CONVERSION REQUEST

Senator MIKULSKI. What kind of written information and guidance do you provide to a State-chartered S&L and their legal counsel when they want to request a conversion?

Mr. CHATFIELD. Madam Chair, the provisions and the requirements stem from section 201(c) of the Federal Credit Union Act, which among other things states that we shall investigate the economic viability of insuring the applicant without undue risk of the fund, and it provides further some conditions under which we are required not to provide insurance, including that insurance of member accounts would otherwise involve undue risk to the fund and that the powers of the institution are appropriate.

So that information is provided to any applicant from any source that applies for insurance with the fund, along with other information. I believe that we have been pretty good about getting back to them, by doing the onsite investigations usually—in the case that you are referring to—in combination with the State regulator and letting them know what things would be necessary in any instance in order to qualify for insurance.

I think that we have been able to do that in a rather prompt fashion, especially as compared to some of the other agencies they may have been talking with.

S&L CONCERNS

Senator MIKULSKI. I want to be clear on why I am asking these questions. As you know, the Congress is now considering legislation about what to do about the S&L's. There are many S&L's that are in pretty good shape, but there is a question of whether they will be able to continue under whatever is going to be continued.

Knowing from my Maryland experience that there might be this same thrust essentially, there are certain S&L's that for all intents and purposes have been a credit union for homeownership. They haven't made car loans or some of the other things that are part of a credit union's portfolio.

I am trying to look down the road when this committee is going to have to handle whatever they come up with in terms of a solution, because we have our oversight and responsibility for funding the Federal Home Loan Bank Board. A lot of what will need to be

appropriated from the S&L bailout might very likely come back to this subcommittee.

I am looking down the road essentially saying, well, I don't know what their plan is going to be. It might not involve the type of conversion recommendations that occurred with Maryland State charters, and here you have federally chartered institutions.

I think there are going to be a lot of issues that will emerge. I'm trying to use this now as my own tutorial in seeing what you did, not only for my own State but some others where State-chartered S&L's wanted to convert to credit union status, and still meet those small loans that were important to people in order to help themselves. So that is the reason we're going through these questions.

I have others, but my time has expired. I want to now come back to the community development loan program. Did you want to comment? So I am trying to see what kind of shape generally you are in, what do you do when the State of Maryland or some other States turn to you, because the whole Federal Government might be turning to you for some very specific items related to your experiences, they might not; I don't know.

Mr. CHATFIELD. I understand. I want to make it clear that we are prepared to insure any organization that comes to us with an application and meets the criteria, we will be very pleased to provide full information to you, Madam Chair, and others on the committee about the information that they are provided, the standards they must meet, and where that is all derived from, and how we handle that.

But I must say that you are absolutely correct that there is concern out there, and I am pleased to be able to tell you that credit unions and the credit union system are doing quite well; that credit unions' earnings are up, their reserves are up, the failure rate is at all-time low, the share insurance fund that insures the deposits at federally chartered and federally insured credit unions is the highest by far among the financial regulatory agencies, and that the fund is very sound, that there is no danger to credit depositors, and the credit union system is in excellent condition.

CU'S LOSS RATIO

In fact, the loss ratio for our deposit insurance fund, the national credit union insurance fund that is operated by NCUA, has declined in recent years from 38 cents per $1,000 of insured deposits annually from a high of $1.29. And that is low, very low within the deposit insurance industry.

Last year we only had to put to sleep 85 credit unions out of more than 15,000 in operation that were having difficulties. That is, again, a historic low within our system.

I could tell you much more about how well the credit union system is functioning, how safe and sound the insurance fund is, and why it shouldn't be changed, but I will defer to your further questions.

Senator MIKULSKI. Senator Kerrey, I know you have many questions you would like to ask. Do you want to proceed?

Senator KERREY. Thank you.

FRANKLIN CREDIT UNION

I assume you all are aware of the Franklin Credit Union of Omaha's problems and the closure, and so are prepared to engage me in a limited discussion here this afternoon about that.

Listen to the language carefully. I see the Franklin case as an intersection of massive fraud and regulatory ineptitude. I see it an intersection of those two points: massive, undetected fraud on the part of Franklin Credit Union of Omaha and regulatory ineptitude on the part of you. That's how I observe it, and when I finish asking my questions, you can comment on that. But that's my opening observation.

The basic question that I've got, and I'm sure the rest of the committee does as well is, is this intersection limited only to Franklin Credit Union of Omaha, NE, or does it, in the midst of your description of overall health of credit unions of America, exist elsewhere?

FACTS SURROUNDING FRANKLIN

Let me add a few facts for the record. I must, with all due respect, say they are observations based on investigative journalism, not as a consequence of receiving information from you all.

Franklin was chartered by you, supervised by you, and insured by you; no CPA audits of the institution were conducted after 1984, even though Federal regulations require annual audits; and the supervisory committee of Franklin Credit Union of Omaha was not aware of its obligation to provide the annual audit, and it does not appear any discussion was held with the committee by the NCUA.

The president of Franklin Credit Union conducted an opulent, extravagant, and obvious life style, to the point that he had $1 million credited to his American Express account in 1987, on a salary of $18,000 a year from Franklin Credit Union. He maintained an expensive residence in Washington. It was an obvious life style, obvious to everybody in the community itself.

During the 1980's, the institution kept a secret set of books and amassed deposits in these secret books of over $30 million, while its public books showed only a little over $2 million of deposits without any of this activity being detected by the NCUA.

It is estimated now that $34 million have simply disappeared in those deposits. It is my understanding that the NCUA has made good on the depositors. There is no question that the depositors have been protected, but that $34 million is now being looked for.

BOARD MEMBER EXPERIENCE

The questions that I have are the following. To begin with, I understand that you have been recently appointed, Mr. Chatfield, and you have experience with credit unions. What experience do the other two board members have with credit unions and their activities?

Mr. CHATFIELD. Senator, the answer is that Senator Jepsen, when he came to the Board, had been a member of credit unions but, beyond that, I don't think had any direct involvement with credit unions. I think the same is true of Vice Chair Burkhardt, although

she did have experience within the financial industry, within the banking system but not within credit unions.

FRAUD PREVENTION

Senator KERREY. Can the NCUA regulate and prevent fraud?

Mr. CHATFIELD. Senator, yes, we are certainly concerned as you are, I think, with the occurrences at Franklin Credit Union that I believe, with my experience in the credit union industry and now within the agency, is certainly very much an aberration. We have taken steps to make sure that it's an aberration and that we don't have additional cases like that out there.

I am, I guess, tempted to try to go into a lengthy explanation and discussion.

Senator KERREY. Let me run through my questions and then I'll give you the opportunity to do that.

Your answer is yes, the NCUA can regulate fraud?

Mr. CHATFIELD. Yes. We can detect fraud when it's possible through the examination process and through the requirements of the Federal credit union to obtain outside information.

FRAUD DETECTION

Senator KERREY. You are saying then if fraud is not detectable through the examination process, you cannot regulate it?

Mr. CHATFIELD. I'm saying that fraud generally is detectable through the examination process and through the independent audit process, but that is not always the case. I think there are many cases—and I don't want to be hard on the accounting profession—but I think there are also cases where fraud has been in process at other financial institutions as well as the Franklin case, where Big 8 accounting firms and other CPA outside audits were unable to detect that fraud.

Senator KERREY. That, by the way, doesn't give me much comfort.

AUDIT COMPLIANCE

However, the next question I would ask is, the Franklin Credit Union, as you know, did not have the annual audits; why was that permitted? Why did they not comply with the annual audit requirement?

Mr. CHATFIELD. Senator, I feel on fairly firm ground in being able to discuss this. If we get into some more detailed things, then I think I'd want to refer to General Counsel, but I think I'm OK on this one; that the last outside audit that was completed was in 1985; that the alleged fraud appeared to be in process at that time and was not detected through that outside audit.

There was an audit that was attempted and had been in process during, I believe, 1986 that the auditor was involved in for many months and failed to complete the audit. We detected that when our examiner was in at the annual examination in 1987. We again insisted on an outside audit. An audit was begun again in 1988, I believe in June or July. That audit was still in process and very

little had been completed by the time we were forced to step in in November 1988.

Senator KERREY. The answer then as to why the Franklin Credit Union was not required to comply is what again?

Mr. CHATFIELD. Well, they were instructed to comply. The officials of that credit union, certainly the board of directors were aware of that requirement and the criticism within the examination report that was done each year by our examiners. There was more than one involved—and again if General Counsel thinks I'm getting too far afield, he should tell me that.

AUDIT REQUIREMENT

Senator KERREY. You are saying that typically if the credit union board of directors say, "Gee, we haven't got the audit done and are sorry about that," you don't go beyond this step?

Mr. CHATFIELD. No; excuse me. We make them aware of that requirement. We criticize them. We can use that, among other reasons, for cause to step in and take over a credit union operation; after they were told to have an audit several times. That step was begun but not completed. The fact that it wasn't completed was not apparent until our examiners were in there the following year on the annual examination.

Senator KERREY. Why didn't the NCUA examiners meet with the Franklin Credit Union board of directors on the question of the lack of the annual audit?

Mr. CHATFIELD. I believe that was raised, but I better refer to the people that handle that, Senator. In fact, before I refer to General Counsel, I should say that in view of the fact that there are ongoing investigations by the IRS, the FBI, the Justice Department, and that a grand jury has been convened, there are some things that I would like to refer to General Counsel. He can provide the necessary guidance as to how far we should go in those matters.

This is Bob Fenner.

Mr. FENNER. Thank you.

Senator, I would like to say first that I have personally been very extensively involved in the efforts of the NCUA to reconstruct what happened at Franklin, to trace funds, to recover assets, to assist the U.S. Attorney in its criminal investigation. I would be very happy to meet with you personally or with your staff and provide you as complete a briefing as you would like on what we know at this point.

Turning to the question of audits, I think that it is very clear that audits should have been done in 1986 and 1987. They weren't done. And I am not going to try to make excuses for that. I would like to ask you to consider the fact that it was, from all appearances, a very small credit union; it was serving a low-income area, actually two low-income areas in Omaha, serving people who badly needed financial services and could not obtain them elsewhere.

It appeared to be a credit union that presented low risk to our insurance fund, and for that reason, I think we were more lenient than we would have been with a larger, more typical credit union.

Our examiners did meet with the officials and board members of the credit union after the completion of each annual exam and did

raise concerns about audits not having been done. It is, in fact, true that audits were not completed for those last 3 years, and they should have been. I think we've learned an important and a costly lesson in that respect.

EXAMINATION REQUIREMENTS

Senator KERREY. By the way, what you've just said is at odds with the public statements made by the board itself—that there was a meeting with the examiners and with the board, to discuss the audit.

Mr. FENNER. At the conclusion of each examination, a joint conference is held. The officials and the board members are invited. I can't say that all of the board members attended. That is something that I can look into and provide you with further information on.

Joint conferences were held and our examination records indicate that this issue was raised at those conferences.

FRAUD DETECTION PROCEDURES

Senator KERREY. Do you have some kind of a, for lack of a better description of it, a detection unit that watches credit unions for abnormalities? I heard the criteria by which you permitted minimal oversight of Franklin, but obviously Franklin was able to remove $34 million relatively easily, so it ends up, even though it's small, being a pretty good potential leakage point.

Do you have any kind of a special detection unit that focuses principally upon fraud in these institutions?

Mr. FENNER. No, we don't. What we have done in the wake of Franklin and a limited number of other cases of significant fraud losses is to modify our examination procedures to cause our examiners to be more aggressive in the areas of record keeping and audit deficiencies, reconciliation of bank accounts, and review of accounts with related organizations such as the CSO. We do not have a separate fraud unit. I don't think that our fraud experience justifies it.

FRAUD LOSSES

Mr. CHATFIELD. Senator, if I may, my recollection in recent years is that among credit unions, less than 5 percent of the losses that have occurred had to do with fraud as opposed to much higher percentages in some other types of organizations.

Although there isn't a specific fraud unit, I must say that Mr. Fenner is a little too modest. There is a group within the General Counsel's Office that kind of specializes in this when the occasion arises, which again isn't often—only in 5 percent of the cases; and, further, that within the regional office, each of the six regional offices that we maintain, there is a review procedure where an analyst reviews the examination report provided by the field auditors and there is intended to be a bit of a creative tension there so that they are to be quite critical in their review of the examination and bring anything to the examiner's attention and to his supervisor's attention that they didn't think was adequately covered.

SUPERVISORY COMMITTEE MEETINGS

Senator KERREY. But in this instance, did you meet with the supervisory committee of the Franklin Credit Union and discuss with them the potential of fraud and the need to get these audits in and to be concerned? You actually met with the supervisory committee, the examiners did?

Mr. CHATFIELD. Our records indicate that the joint conference, the exit conference that's held at the end of the examination, was held with the officials of Franklin Credit Union. That's a meeting to which the supervisory committee is invited and, hopefully, would attend, but we can't force people to attend that meeting.

Senator KERREY. But it's the supervisory committee that has the responsibility for the audit. You would think that you would do more than just invite and then hope that they would do more than just attend.

Mr. CHATFIELD. Again, the supervisory committee is appointed by the board of directors.

Senator KERREY. I understand. But do they not have the responsibility for requiring the audit?

Mr. CHATFIELD. That is within their designated responsibilities. Yes, Senator.

Senator KERREY. That is their legal responsibility. And it would seem that in the absence of the audit, the examiners would have called the supervisory committee together and said, "What's going on here? You have a legal responsibility to require this audit and you're not doing it."

It would seem there would have been some sort of meeting to accomplish that.

Mr. CHATFIELD. Maybe Mike Riley, who is in charge of Examination and Insurance Section, could shed some more light on that, Senator.

Mr. RILEY. It's going to be tough. The examiners do meet with the supervisory committee. They should be going over the audit papers. Our examination reports, at least the ones we have, indicate that the written information was given to the officials to do these things. We've been very successful, I guess, since 1934 in having volunteer officials run these smaller institutions, and I guess we have been more lenient on this particular type.

I will say that as soon as this happened, we did have our examiners contact all similar type credit unions, review their audits, and review their recordkeeping. We are no longer lenient in this area.

I think even with this loss, our loss ratio still will be very good. But I think as the economy has changed and different things have changed, we are going to have to beef up our activities in this particular fraud detection area.

CD MARKET MONITORING

Let me just roll through a couple of other questions real quickly. If you can do yes or no, I am sure the Chair will follow with some other questions. I want to know if you regularly monitor CD markets to identify credit unions that are accepting broker deposits at significantly inflated market rates.

TRANSACTION MONITORING

Mr. CHATFIELD. Yes, we do, Senator.

Senator KERREY. As part of your annual examination, does the NCUA review the transactions in the credit union's control or transfer accounts with other banking institutions?

Mr. CHATFIELD. I believe we review those. We review them for the balancing activities. I don't know that we review every transaction, but the answer is yes, we review the records in that regard.

Senator KERREY. So in this case, if there is a central account with one banking institution, the NCUA would have reviewed that central account?

Mr. CHATFIELD. The bank reconcilements that pertain to that account. Yes; that's part of the review.

Senator KERREY. And if I were to conduct a cursory review of the account of the single institution, let's say, and discover that there's millions of dollars rolling through it, wouldn't that suggest suspicion?

Mr. CHATFIELD. I have a response, but maybe Mike would prefer to.

FRANKLIN CLF BORROWING

Senator KERREY. Let me actually insert that into the record because I know it's a much longer answer. Let me just get to a shorter answer, which is whether or not the Franklin Credit Union ever borrowed from the Central Liquidity Facility.

Mr. CHATFIELD. Mr. Lancaster, the President of CLF.

Mr. LANCASTER. No; we don't have a record of a borrowing.

Senator KERREY. It has never borrowed from the Liquidity Facility?

Mr. LANCASTER. No.

NCUA AUDIT RECOMMENDATION

Senator KERREY. I have other questions that I would submit, Madam Chair. I would like, if the Chair would agree, to suggest the appropriateness of a GAO audit of the NCUA to one, determine whether or not it is meeting its annual requirements to audit other credit unions; two, whether or not the NCUA has the resources to conduct such audits, which I think is what you were asking; three, whether or not those resources are used effectively and efficiently; and four, whether or not NCUA has the capacity to identify fraud and other criminal problems prior to being alerted to such problems by law enforcement agencies.

CREDIT UNION NEED

I do want parenthetically to associate myself with the opening statement that the Chair made, about the need for credit unions. I belonged to the Navy Credit Union a long time ago, and I see an even greater purpose being served by the Franklin Credit Union.

COMMUNITY IMPACT OF CU LOSS

The loss here is not just the loss of potential depositors. The loss is a loss of confidence. The loss is a loss of individuals that now won't be able to borrow, won't be able to do the sorts of things that the Chair was talking about at the beginning. It is an enormous loss. And it causes me, as one Senator, to listen to your assurances that everything is OK and significantly discount those assurances.

Mr. CHATFIELD. Senator, if I may, we certainly share your concern about the community because that credit union, regardless of what else it may have done, did provide many worthy services to people in that area, and it's a shame that that service has at least temporarily, if not permanently gone away.

AUDITS OF NCUA

But we are happy to provide any information to you or to GAO or to any other appropriate authority that needs to look into this. I should say that GAO has audited NCUA every year, and they have issued a clean opinion audit. We're also the only Federal chartering and supervising agency and insurance agency that subjects itself voluntarily to a Big 8 accounting firm CPA audit every year, and we've had a clean opinion audit for the last 5 years since we began that procedure.

EFFECTS OF FRANKLIN CU LOSS

Senator KERREY. I just reinforce, if you can't detect this sort of thing, an $18,000 a year employee running up a $1 million bill on American Express, with a $5,000 a month apartment here in Washington, a place in Los Angeles, and a plane at his disposal and limousines that he's using all the time on $18,000 a year, with $34 million missing, if you can't regulate that kind of activity, what can you do?

The situation has caused a significant loss of confidence, and I think it's most unfortunate, given my concern for what the credit unions do and are trying to do.

Senator MIKULSKI. Well, first let me say this, Senator Kerrey. I think you've made a very important national contribution today by taking the issue of Franklin and bringing it to not only the committee's attention, but really to the Senate's attention, for exactly the points that you have just made. If we can't keep an eye on something like this, then it gives one pause about the system.

The other thing is that the loss is to the people in the Franklin Credit Union neighborhood. Sure, we are very appreciative of the fact that the overall loss ratio of the Federal credit union organization is so low, but to the people of Franklin this is going to be a death blow. To the business community that worked with the Franklin Credit Union and the next time the mayor of Omaha comes to them to get involved in a public/private partnership, they're going to have the hot stove syndrome. They're going to say, "We were burned with Franklin and we don't want to be seared with another project."

So it will have devastating effects. And then, of course, we come back to the fact that right now, the people of the United States of

America wonder what we're doing. They wonder what we do on the S&L's, they wonder what we did on nuclear weapons factories, they wonder what we do to police our own, and we have a crisis of confidence growing in this country.

STUDY REQUEST BY GAO

We are going to ask for a GAO study, not because we're on a witch hunt, but because we want to make sure everything is spit and polish at the credit union place. What we need to do is work with you to continue that and where there are problems or potholes, make sure that they are repaired, so that the Franklin Credit Union situation is not the tip of an iceberg, but a little ice cube that we can contain right now to make sure it doesn't spread.

So, Senator Kerrey, I thank you for your line of questioning, the thoroughness with which you've gone about it. We are going to do that GAO study because I think in this way we'll be able to inoculate ourselves against any other virus of this type of activity.

I just have two questions related to the community development revolving loan fund.

Senator KERREY. Madam Chair, can I just for the record say to Mr. Chatfield that I hope, given your experience with the credit unions, that you are reappointed, because I think that experience is extremely important in being able to provide the kind of advice and oversight that the credit unions need.

Mr. CHATFIELD. Thank you for that, Senator.

CENTRAL LIQUIDITY FACILITY LOAN JUSTIFICATION

Senator MIKULSKI. Mr. Chatfield, now we're back between you, the Congress, and OMB. I'd like to ask some questions related first to the CLF direct loan fund. We understand that as part of your justifications, you project only $20 million with the Central Liquidity Facility that we will provide to the credit unions in fiscal 1990. This is a drop of nearly $50 million, or over 70 percent, that you estimated in fiscal 1989.

Here's my set of questions, what was your original estimate to OMB of what your direct loan funds would be in fiscal 1990? What is the reason for this sharp drop in your official projections?

Mr. CHATFIELD. Mr. Lancaster or Mr. Poling.

Mr. LANCASTER. Our original estimate on the $20 million was for $58 million.

Senator MIKULSKI. And why the reason for the sharp drop, sir?

Mr. LANCASTER. We don't know; I have no idea.

Mr. POLING. OMB is proposing that the CLF go on their own financing activity with their unexpended balances and investments and prohibit borrowing from the Federal Financing Bank.

Senator MIKULSKI. Is that what that's all about?

Mr. POLING. That's what that's all about.

IMPACT OF CENTRAL LIQUIDITY FACILITY LOAN RESTRICTIONS

Senator MIKULSKI. What are the practical implications of this proposed restriction on your direct loan activities?

Mr. CHATFIELD. Madam Chair, the CLF is kind of a safety net in terms of liquidity for the credit union system. And again at the present time, the liquidity needs of the credit union system are very much under control, but in the event of fluctuations that safety net, I think, needs to be there and the effect of the change would be to, I guess, kind of single out CLF, if I may, for deleting its borrowing authority from the Federal Financing Bank. We believe we're the only agency, at least the only we could find, that's being singled out in this fashion, and we don't know the reason for it.

CENTRAL LIQUIDITY FACILITY BORROWING OPTIONS

Senator MIKULSKI. Where would you borrow to get these funds for loans if you couldn't go to the Financing Bank?

Mr. LANCASTER. We could go, I suppose, to the Federal Reserve Bank discount window, but we have several problems with that. One is credit that they extend. They extend their credit based on a few days or a few weeks. The CLF has been engaged for the past 9 years in extending 30- to 90-day loans. We have made 3- and 4-year loans. This would be unheard of for the Federal Reserve discount window.

Another area is collateral. The Federal Reserve actually requires transfer of collateral when they make a loan. The CLF will take a pledge of general assets.

Another one would be borrowing limits. The Federal Reserve would probably be required to adhere to statutory limits. The CLF, in lending to its credit unions, would not be restricted to the borrowing limits.

The real difference I think in the Federal Reserve, and the CLF lies in the monetary policy of the Federal Reserve in maintaining healthy liquidity of all financial institutions. The CLF is a specialized lender, serving only credit unions. Credit unions are our only clients.

Mr. CHATFIELD. Madam Chair, we are also concerned about the other language within the budget provision which, while it wouldn't have the effect of law, seems to want to reduce all of the borrowing authority of the CLF. And I think during these kinds of financial times, we should be looking for ways to make a system better, not dismantle it as this wants to do apparently.

Senator MIKULSKI. Well, thank you. I think you've clarified what this position is, and I think we know what OMB wants to do. They just want to look better; they want the books to look better, or the budget books to look better. I'm not so sure it will.

TRANSFER OF COMMUNITY DEVELOPMENT REVOLVING LOAN FUND

This then takes me to the community development revolving loan fund. As I understand it, OMB wants to transfer this remaining fund to the Neighborhood Reinvestment Corporation. What is OMB's rationale for this position—I don't know if you can tell us, but I'll ask it anyway—and how much of the unobligated balance does this revolving loan fund have, and what would be the impact on your organization if this transfer would occur?

STATUS OF CDRL FUND

Mr. CHATFIELD. Madam Chair, as you've noted, the community development credit union revolving loan fund now resides at NCUA. That's been the case for the last several years. We have developed rules and regulations and policies and procedures to implement that authority. We were kind of cut off in midstream, I guess, when by OMB directive those funds were frozen about a year and a half ago and, as a consequence, no new loan funds have been advanced.

Senator MIKULSKI. They impounded this $6-plus million. It's about $6.7 million my books show. Am I correct?

Mr. CHATFIELD. Yes.

Senator MIKULSKI. They've got this impounded?

Mr. CHATFIELD. It's frozen. Others can describe how that comes about through the provisions of OMB, but it is frozen. We're not able to make new loan advances, although we are certainly prepared to do so.

I guess our feeling is that if this is to remain a community credit union development revolving loan fund, then the proper place for it is at NCUA if that's to continue to be its purpose.

I believe you had another question about the unobligated balances and that would relate to the activity within the fund prior to its being frozen.

Floyd, if you would.

Senator MIKULSKI. I think I've got that.

Let me ask about this fund being frozen. This is going to be my last oral question. We'll have some others for the record. We've kept you quite long and we need to go over many other issues.

Last year the committee report included language expressing the concern that OMB had frozen the use of this revolving fund for the last 4 years, even though the Credit Union Administration has developed regulations for any loans made from this fund. Since OMB has not acted on our report language to essentially unfreeze it, do you believe it will take bill language to free up the use in 1990?

Mr. CHATFIELD. Mr. Lancaster.

Mr. LANCASTER. I believe it will; yes.

Mr. CHATFIELD. I think we're unanimous that it probably would. Yes, Madam Chair.

Senator MIKULSKI. So it is your advice then that we should keep the community development revolving loan fund with you because you've developed the expertise in the area, the regulations are ready to go in how it would be implemented. Essentially you have been frozen by an agency of primarily anonymity, and that it should stay with you and that it should be unfrozen if we are to meet the public purpose for which it was established.

Mr. CHATFIELD. Let me first say yes; that is correct, Madam Chair.

Mr. Lancaster, did you have something to add?

Mr. LANCASTER. It all occurred with the Omnibus Budget Reconciliation Act of 1987 which is Public Law 100–203, that capped Federal domestic assistance programs at or below their previous levels. Since there had been no disbursement since 1984 in the fund, the

previous year's spending level was zero, and it's been kept in the budget ever since at zero.

Senator MIKULSKI. Sure. We understand their thinking.

We thank you for your advice on this matter. We thank you for the testimony. I do have some questions we'd like to submit for the record.

Senator Kerrey, do you have additional questions?

Senator KERREY. I do indeed.

Senator MIKULSKI. They will be submitted.

SUBMITTED QUESTIONS

[The following questions were not asked at the hearing, but were submitted to the Administration for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR MIKULSKI

FINANCIAL PORTRAIT OF CU'S

Question. Since I am new as the Subcommittee chair this year, I want to learn more about the health of credit unions in this country, particularly in light of all the discussion about the S&L crisis. Could you give me a financial portrait of America's credit unions: how many there are, how many face serious financial difficulty or insolvency each year, and what is the average loan to investment ratio for credit unions?

Answer. A copy of the National Credit Union Administration Share Insurance Report for the Fiscal Year 1987 which includes trends and highlights of the financial status of credit unions has been provided to the committee. The 1988 report, currently in printing, will be sent upon completion. In the interim, the following answers to your specific questions are provided. At calendar year-end 1988 there were 13,917 federally insured credit unions with about $160 billion in insured shares. The reserves to asset ratio is 6.9%, the highest among financial institutions. Aggregate net earnings in credit unions was up by 22%. The loan to share ratio (most credit union assets are in consumer loans) has increased to 71%, which combined with a decline in delinquency rates to 1.8% speaks well for the future of credit unions. In addition, 1988 saw the fewest number of credit union liquidations and assisted mergers in 15 years.

FINANCIAL HEALTH OF CU'S

Question. Could you explain for me some of the reasons why credit unions are, as whole, so much healthier financially than S&L's? Is it because there are stricter controls on the kinds of loans which credit unions make?

Answer. First, the cooperative nature of credit unions and the fact they are democratically controlled has a major influence on their success. There are a number of other factors that contribute to the healthy status of credit unions compared to S&Ls, including the nature of their business, the relationship between regulator and industry, and the regulatory oversight. Briefly, the S&L problem was prompted by rising interest rates in the late 70s and early 80s. S&L holdings of long-term fixed-rate real estate loans funded by short-term deposits that were priced at the rising rates resulted in decreased or negative earnings and capital. S&L management sought new business areas to offset their losses. In many instances these ventures were excessively risky and caused the situation that exists today. There also appeared to be a complete and almost absolute failure of the regulatory agency to provide supervision.

While credit unions do engage in real estate lending, the bulk of their lending is oriented to consumer loans. The maturity structure of the assets and liabilities does not present the interest rate risks that were present in the S&Ls. Credit union

earnings and capital are strong; thus, management is not forced to increase the level of risk to improve earnings to ensure self-existence. In addition, credit unions and the state and federal regulators have a good working relationship. NCUA has a very aggressive, state-of-the-art supervision and examination structure.

Question. What is the effect on the average credit union that comes to you for a direct loan if you can't borrow from the FFB?

Answer. We would not be able to provide short-term liquidity at reasonable interest rates.

NONMEMBER DEPOSITS

Question. I understand that you issued an interim final rule in December that limits "non-member" and government deposits in credit unions to 20% of its total deposits. I'm told by representatives of community development credit unions that this rule will devastate many credit unions based in low-income areas who depend on these non-member deposits to have the capital that they need to make loans. What was the reason for promulgating these regulations as an interim final rule, which allows for initial implementation before any public comment? Did you consult with many credit union executives before doing so?

Answer. While the issue of nonmember deposits was being reviewed for some time, the NCUA Board found it necessary and appropriate to act quickly in this matter in order to limit further losses and reduce additional risk. We were aware of several credit unions who were becoming actively engaged in soliciting large amounts of brokered deposits. The interim rule gives credit unions that currently exceed the 20% limit a 60 day period to request an exemption or provide a statement of compliance with the rule. NCUA did consult with key credit union officials prior to issuing the rule.

Question. But if fraud is the reason, how can you be sure that restricting non-member deposits is the real answer. The fraud in the Franklin Community Credit Union in Omaha involved deposits by commercial brokerage sources on which Franklin promised a high interest rate. Why doesn't your rule distinguish between these kinds of non-member deposits and the kind of non-member deposits which low-income credit unions typically receive, which are from non-profit groups who expect a relatively low interest rate on their investment?

Answer. The rule does distinguish among types of nonmember funds. The definition of nonmember deposits does not include grants from government agencies or donations from other organizations. However, the thrust of the rule is to require a credit union to develop a business plan to properly manage nonmember deposits.

PROBLEM CASE RESULTS

Question. What percentage of fraudulent credit union transactions in the last several years has been due to non-member deposits?

Answer. Problem cases resulting from nonmember deposits include: Approximately 30% of the last five years' total insurance dollar losses have been in cases involving nonmember deposits. However, only 5% of the number of cases in which losses occurred involved fraud. Loss cases involving nonmember deposits include:

Franklin Community FCU - estimated losses nearly $40 million;

Zionic FCU - liquidation cost $4.5 million, nonmember deposits were $18 million as compared to $250,000 in member accounts;

American Free Enterprise FCU - merged at a cost of $898,000;

New American - Liquidated at a cost of $3.1 million;

United Methodist FCU - Liquidated at a cost exceeding $2.3 million; and,

Financial Services CU - Liquidated at a cost exceeding $1 million.

These losses resulted from use of a legitimate authority in an unsafe and unsound manner and for purposes beyond the authority's design and intent.

Question. If you want to go after the crooks in the industry, why not simply increase the amount of scrutiny your examiners do of low-income credit unions?

Answer. NCUA has increased the amount of supervision provided to credit unions that accept nonmember deposits.

EFFECT OF NONMEMBER DEPOSIT RULE

Question. I'm told that many of the credit unions in severely depressed portions of the country, where commercial banks have closed their shops, have between 30 and 60% of their deposits from non-members like churches or non-profit foundations. How are they supposed to cope with this new regulation?

Answer. Credit unions that operate effectively in a safe and sound manner will not be negatively affected by this rule; they have a 60 day period to request a waiver or provide a statement to NCUA's regional office that they are in compliance with the rule. Credit unions with an appropriate business plan for the use of the funds should be able to receive a waiver.

Question. But won't the requirement of a waiver tend to discourage certain "non-member" groups from investing in credit unions because of the additional red tape? Won't this hurt those credit unions who really are the only financial institution that exist to help stabilize the neighborhood where they are located?

Answer. The rule affects the credit union. The investor may or may not be aware that the credit union has or is applying for a waiver; however, we hope every investor takes the time to make a prudent investment decision. This rule should not inhibit those credit unions that exist to help stabilize the neighborhoods where they are located. However, it's important to recognize the negative effect that having a credit union in financial trouble due to poor planning or mismanagement has on the confidence level of neighborhood credit unions. A combination of compliance with this rule and increased examiner supervision will assist in this area.

COMMENT PERIOD ON NONMEMBER DEPOSIT RULE

Question. The NCUA has received over 110 comments on this rule, including six from Members of Congress, some of them from members of this Subcommittee in both houses. This rule has also provoked a fair amount of opposition from those in the community development credit union industry. In light of all these comments, how do you intend to respond to the criticisms of the initial rule? It's good that you've extended the comment period. But what substantive changes do you anticipate as a result of these comments? For example, what changes will be made to distinguish the "kind" of non-member deposits made to credit unions?

Answer. The NCUA Board extended the comment period on this interim rule until May 15. The extension of the comment period will give the Board and the credit union community time to fully discuss recommendations to modify the rule. It is too early to determine whether any substantive changes will be made to the final rule. This will be addressed after every concerned individual and organization provides input during the extended comment period.

OUESTIONS SUBMITTED BY SENATOR LEAHY

FLOW OF NONMEMBER DEPOSITS

Question. What is the status of the NCUA rule, issued on December 19, 1989, that would limit the flow of non-member deposits to community development credit unions, as explained in my attached letter of February 16, 1989? It is my understanding that the period for public comments has been extended.

Answer. No credit union with an adequate business plan for use of nonmember deposits will be adversely affected by this rule. The comment period on the interim final rule limiting nonmember accounts in federally insured credit unions has been extended until May 15 by the NCUA Board. Based on letters and comments received to date by the NCUA Board, we felt an extension of the comment period was needed to allow the credit union community time to fully discuss the rule.

FRANKLIN CASE

Question. Does the NCUA have available a briefing report for members on the Omaha, Nebraska case which prompted issuance of the above-mentioned rule? I would appreciate receiving such a report.

Answer. Although nonmember deposits was a factor in the Franklin case, the change in the regulation was being considered before this case occurred because of other problems and losses that were a direct result of nonmember deposits. A copy of the Interim Rule which further explains the NCUA Board's reasons for changing the Regulation has been provided to the committee.

PUBLIC COMMENTS REPORT

Question. Is the NCUA planning to implement a review and report of its findings on the public comments that it receives pursuant to this rule?

Answer. When the final rule is issued after May 15, a report will be presented to the NCUA Board which will review the comment letters and will recommend whether or not to change the final interim rule issued in December. This report will be made available to the public at the time it is presented to the NCUA Board.

During the initial comment period, a number of religious and philanthropic organizations expressed opposition to the rule. Many of them have funds deposited in low income credit unions at below market rates, making capital available to credit unions whose members may have no other financial services or source of credit. The interim rules does give NCUA regional directors the authority to allow credit unions to exceed the 20 percent limit when the credit union demonstrates the need.

QUESTIONS SUBMITTED BY SENATOR KERREY

CD MONITORING

Question. Does NCUA have any type of "fraud detection unit" which monitors suspicious activities of credit unions such as occurred in this case?

Answer. The CD markets are not as formalized as other markets and such information is not readily available from market sources. However, our examiners do review such activity during each examination. In addition, through use of a computer program we monitor our call report data to target any unusual trends or changes in key financial areas.

The Agency operates an Investment Hotline which is available to credit unions to answer questions concerning investment issues. Because the number has been widely published it receives calls not only from credit union officials, but also from brokers, other financial institutions and sometimes the general public.

The purpose of the Hotline is to help credit unions answer questions concerning investments they may be involved in or are considering. Through this Hotline we have been able to alert the NCUA regional offices about credit unions that were using brokers to locate funds for them. Also, the regional offices will receive information on this activity through their field examiners or from other credit unions. At about the time we began to take action against Franklin in November, the Hotline did receive several calls about the Franklin operation and the rate of interest they were paying on certificates.

TRANSACTION REVIEW

Question. As a part of its annual examination, does NCUA review the transactions in the credit union's control or transfer accounts with other banking institutions?

Answer. During every examination, examiners are required to review and examine the cash accounts and the latest corresponding bank reconcilements for the cash accounts. If discrepancies are found, they are reported to the board of directors and supervisory committee. As a result of our experience with Franklin, we are preparing a supplement to our examination procedures that will reemphasize the importance of careful examination and aggressive follow up in these areas: review of accounts and transactions with related organizations, review of the credit union's cash accounts and bank statements, and correction of audit and recordkeeping deficiencies.

Question. In your testimony you say, "when danger signs in credit union operations begin to appear, the Central Liquidity Facility should be prepared to respond." What are your "danger signs"?

Answer. Some of the danger signs are rising interest rates, inflation, layoffs, plant closing, regional problems such as occurred in the southwest, particularly Texas, and large investments in long term securities just prior to periods of rising interest rates.

Question. Do you have a formula for determining when there is a problem?

Answer. The CAMEL rating system which was developed based on the financial and operational aspects of a credit union is used to help determine a problem. It is an evaluation of the five crucial dimensions--capital adequacy, asset quality, management, earnings, and liquidity--that reflect comprehensively the credit union's financial condition, compliance with credit union regulations and statutes, and overall operating soundness.

Question. When the CLF makes a loan, does that automatically trigger any kind of investigation?

Answer. It triggers a credit analysis including ratios and an inquiry into the need for a loan which may or may not lead to an on-site review or investigation.

Request. Please provide a list of the institutions which have received loans in each of the past three years, the amount of each loan, the reason the loan was required, and the current status of the loan.

Fiscal Year 1986

1. U.S. Central CU for Westinghouse Beaver CU	$ 1,000,000	Paid In Full Provide liquidity assistance during conservatorship by regulator.
2. Valley FCU of Montana	$ 950,000	Paid In Full Provide liquidity assistance during period of interest rate adjustments in share certificates.

3. U.S. Central CU for Calco FCU NIH FCU Lockheed Employees FCU Grissom FCU Bergstom FCU Desert Schools CU Mare Island FCU F.A. Western FCU San Diego Navy FCU	$65,550,000	Current Balance $15,300,000 Provide liquidity assistance to credit unions invested in long-term securities to avoid substantial losses if redeemed at market value. Loan fully collateralized by U.S. Government and/or agency securities.
4. U.S. Central CU for NIH FCU Chattanooga T.V.A. FCU Mare Island FCU San Diego Navy FCU	$42,630,000	Paid In Full See No.3 above
5. Tropical Telco FCU	$ 1,000,000	Paid In Full Provide liquidity assistance for share draft clearings for a credit union during a workout plan with the regulator.
6. Polonia Confraternity FCU	$ 1,150,000	Paid In Full Provide liquidity assistance during conservatorship by regulator.
7. U.S. Central CU for Community CU Government Employees of San Antonic CU	$19,105,000	Paid In Full See No. 3 above.
8. Orem Geneva FCU	$ 1,500,000	Paid In Full Provide liquidity assistance after announcement of factory shut-down.

Fiscal Year 1987

9. Georgia State University FCU	$ 100,000	Paid In Full Provide seasonal liquidity for teachers credit union.
10. Western Corp. for Denali FCU	$ 2,075,804	Paid In Full Provide liquidity assistance during conservatorship by regulator.
11. Wenewark FCU	$ 600,000	Paid In Full Provide liquidity assistance until short-term investment matured.
12. Western Corp. FCU for Denali FCU	$ 1,000,000	Paid In Full Provide liquidity assistance during asset/liability restructuring (student loans funded by "above market rate" share certificates of deposit).
14. Southwest Corp. FCU for Texas Aggie FCU	$ 750,000	Paid In Full See No. 12 above.
15. Wenewark FCU	$ 500,000	Paid In Full See No. 11 above.
16. Western Corp. FCU for Denali FCU	$ 1,000,000	Paid In Full See No. 10 above.

17. U.S. Central CU for San Antonio CU	$25,000,000	Included In No.31 Provide liquidity assistance during management and asset/liability restructuring during a work-out plan with the regulator.
18. Horseman's CU	$ 350,000	Paid In Full Provide seasonal liquidity for share withdrawals.
19. U.S. Central CU for San Antonio CU	$ 5,000,000	Paid In Full See No. 17 above.
20. U.S. Central CU for Emerson Employees CU	$ 4,800,000	Paid In Full See No. 3 above.
21. U.S. Central CU for San Antonio CU	$15,000,000	Rewritten As No. 29. See No. 17 above.
22. U.S. Central CU for Texas Aggie FCU	$ 500,000	Paid In Full See No. 13 above.
23. U.S. Central CU for San Antonio CU	$15,000,000	Included In No.31 See No. 17 above.
24. Brooks Park Municipal FCU	$ 50,000	Paid In Full Provide liquidity assistance during asset restructuring.
25. Macon Citizens Saving CU	$ 100,000	Paid In Full Provide liquidity assistance during merger process.

26. United Methodist FCU	$ 2,000,000	Paid In Full Provide liquidity assistance during conservatorship and liquidation.

Fiscal Year 1988

27. U.S. Central CU for San Antonio CU	$15,000,000	Included In No. 31 See No. 17 above.
28. N.E.C. FCU	$ 150,000	Paid In Full Provide Liquidity assistance during merger process.
29. U.S. Central CU for San Antonio CU	$15,000,000	Included In No. 31 See No. 17 above.
30. U.S. Central CU for Texas Aggie CU	$ 500,000	Paid In Full See No. 13 above.
31. U.S. Central CU for San Antonio CU	$70,000,000	Current Balance $60,000,000 See No. 17 above.
32. U.S. Central CU for Texas Aggie	$ 500,000	Paid In Full See No. 13 above.
33. K.O.D. Toy FCU	$ 20,000	Paid In Full Provide seasonal liquidity assistance for share outflow - Christmas.
34. U.S. Central CU for Stockton C.S.O. CU	$ 1,000,000	Paid In Full Provide liquidity assistance during liquidation.

35. Valley FCU of Montana	$ 750,000	Paid In Full Provide liquidity assistance to ensure uninterrupted share draft clearings.
36. Logan County Public School CU	$ 5,000,000	Paid In Full Provide liquidity assistance during merger process.
37. Logan County Public School CU	$ 5,000,000	Paid In Full See No. 36 above.
38. N.E.C. FCU	$ 50,000	Paid In Full See No. 28 above.
39. U.S. Central for Greenfield Community FCU	$ 350,000	Current Balance $92,170.50 Provide liquidity assistance during management and asset/liability restructuring.
40. Wenewark FCU	$ 200,000	Paid In Full See No. 11 above.
41. U.S. Central CU for Emerson Community FCU New Hampshire FCU Rainbow FCU U.S.A. FCU	$32,900,000	Current Balance $32,900,000 See No. 3 above.
42. U.S. Central CU for FAA Western FCU Fort Ord FCU NIH FCU	$ 9,245,000	Current Balance $9,245,000 See No.3 above.

43. U.S. Central CU for Valley County FCU	$	855,000	Current Balance $855,000 Provide liquidity assistance during management and asset/ liability restructuring.
44. U.S. Central CU for Valley County FCU	$	100,000	Current Balance $100,000 See No. 43 above.
45. U.S. Central CU for Valley County FCU	$	45,000	Current Balance $45,000 See No. 43 above.
46. Valley FCU of Montana	$	300,000	Current Balance $300,000 Provide liquidity assistance for share draft clearings.
47. Valley FCU of Montana	$	200,000	Current Balance $200,000 See No. 46 above.
48. Valley FCU of Montana	$	500,000	Current Balance $500,000 See No. 46 above.
49. Valley FCU of Montana	$	200,000	Current Balance $200,000 See No. 46 above.
50. U.S.Central CU for Mt. Carmel CU	$	673,000	Current Balance $673,000 See No. 3 above.

Total Balance Outstanding September 30, 1988 **$120,440,170.50**

No Losses

The Central Liquidity Facility has not sustained any losses since it began operations over nine years ago on October 1, 1979.

Long-Term Loan Policy

Loans that are initially intended to be long-term (in excess of 90 days) are rewritten every 30 to 90 days to ensure that borrowing credit unions are not locked into fixed interest rates during declining interest rate periods.

QUESTIONS SUBMITTED BY SENATOR GRASSLEY

CREDIT UNION LIQUIDITY

Question. Mr. Chatfield, I have a question about liquidity. A few years ago, credit unions experienced a great deal of liquidity growth. This issue obviously entails a precarious balance between sufficient liquidity and excessive liquidity. In 1987, Senator Jepsen, chairman of the NCUA board and a colleague of mine from Iowa, cautioned credit unions about excessive liquidity, expressing concern that credit union managers were becoming "investment managers." In light of the problems in other sectors of the financial services community, we in Congress are concerned about investments in nontraditional enterprises. Your prepared testimony, however, states that loans have increased at twice the rate of shares, tightening up liquidity. Would you please comment on the current status of liquidity among credit unions and tell me what your current loan-to-share ratio is?

Answer. Loan growth continues to outpace the growth in shares. The loan to share ratio, one liquidity measurement, was 71.2% as of December 1988 for all federally insured credit unions. NCUA collects data monthly from a sample of credit unions to monitor trends in the industry. The sample for January indicates that the loan to share ratio declined slightly to 70.8%.

While recent increases in this ratio indicate a modest tightening of liquidity, it has a long way to go to reach the 93 to 96 percent ratios of a decade ago. We view the increase in loans as a positive factor in the industry. Credit unions have traditionally had greater success in granting member loans than they have in expanding their presence in the investment marketplace.

EFFECT OF PRESIDENT'S PROPOSAL ON CU'S

Question. Mr. Chatfield, I realize that your testimony centers on the Central Liquidity Facility because that's the aspect of the NCUA over which this subcommittee has jurisdiction. As an Appropriations Committee, however, we are also concerned about the funding necessary to bail out FSLIC. Though that does not directly impact credit unions, there are some aspects of the President's plan which do impact credit unions and their insurance fund. As I recall, credit unions recapitalized their insurance fund in 1985 by "pledging" or depositing 1% of their deposit base, up front, into the NCUSIF. Since a typical assessment is more like 1/12 of 1%, in essence the credit unions made 12 premium payments in one shot. The trade-off, as I understand, was that the deposit would remain on the books of member credit unions as a non-interest earning asset. The President's plan, however, would require credit unions to expense this assessment. Would you please describe your concerns about this part of the President's proposal?

Answer. The President's proposal would require credit unions to expense their one percent insurance fund deposit (capital contribution) over an eight year period, thereafter funding insurance needs from premiums. My basic concern is that this proposal would actually weaken the National Credit Union Share Insurance Fund, not strengthen it. The capitalization plan was approved by Congress as part of the Deficit Reduction Act of 1984. The key points of the legislation are:

1. To provide that credit unions deposit one percent of insured shares in the Fund;
2. To provide for an annual growth adjustment to ensure that one percent of the credit union shares remain current;
3. To provide NCUA with the authority to assess annual premiums of 1/12 of one percent; and
4. To provide that if the contributed capital of the Fund falls below one percent of total shares, all insured credit unions would be assessed the necessary amount to return the Fund to one percent.

These key provisions make the Fund virtually fail safe. The President's proposal would eliminate the integral provisions that permit the Fund to remain strong and solvent at all times.

The thrust of the President's plan deals with resolving the savings and loan problem. I would suggest that the 1984 NCUSIF Capitalization legislation be used as a model for the plan. I would also suggest the NCUSIF be eliminated from the current plan since the Fund is operating effectively.

EFFECT OF PROPOSAL ON INSURANCE FUND

Question. What do you think would happen to the insurance fund if this part of the plan is enacted?

Answer. Enactment of this part of the plan would result in a serious weakening of the insurance fund. Just as importantly, it would remove one of the fail-safe characteristics of the Fund that requires additional contributions to maintain the equity level at one percent.

The plan would also displace the credit unions as part owners of the Fund. The self-discipline that this arrangement fosters would be lost.

INSURANCE FUND RESERVE RATIO

Question. How would your reserve ratios be affected?

Answer. Currently the ratio of equity to insured shares is 1.26% ($1.26 on hand for every $100 of insured shares). This compares favorably to FDIC, estimated at .83%, and the insolvent FSLIC. Under the proposed plan our current ratio of 1.26% would decline to a dangerously low .57%.

DEPOSIT INSURANCE RATIONALE

Question. If credit unions do not actually have access to this asset, why should they be allowed to keep it on their books?

Answer. The credit unions do have access to the deposit and they may withdraw it if they do not continue to be insured by the NCUSIF. Under Generally Accepted Accounting principles (GAAP), an asset is something that represents value. As long as the NCUSIF is solvent and providing deposit insurance it clearly represents value.

The share insurance fund maintains its books and records in accordance with Generally Accepted Accounting Principles (GAAP). The Fund engages a major CPA firm to perform an opinion audit annually. The Fund continues to receive an unqualified opinion. In addition, GAO reviews the audit and performance of the Fund. These experts agree the capitalization deposit is properly reflected on the financial statement as an asset.

CHARACTERISTICS OF CU'S

Question. As you no doubt are well aware, much attention has been brought to the tax exempt status of credit unions. Could you review the characteristics of the credit unions which make them distinct from other financial institutions, which are subject to taxation?

Answer. Credit unions are actually owned by their members, each of whom has a voting interest in selection of the officials. The board of directors and various committee members are volunteers, receiving no compensation for their efforts. Another distinction is the size of credit unions. Nearly 70 percent of credit unions have assets below $5,000,000. The average size is slightly over $12 million in assets. The combined assets of all credit unions do not exceed the assets of the two largest banks. Credit unions have a designated field of membership with a common bond, such as a specific employee group. Credit unions are cooperative, not-for-profit organizations.

COMMON BOND ISSUE

Question. Finally, Mr. Chatfield, I'd like to ask some questions about the "common bond" requirement for credit union membership. The recently chartered credit union for the AARP, a large organization with millions of members across the country, has increased the attention to the loosening common bond requirements for credit unions. As I understand it, the regulator has relaxed its interpretation of common bond, thus allowing credit unions to branch out beyond the traditional market place of credit unions. Does the NCUA support these more relaxed interpretations of

"common bond?" What would be your position, and that of the NCUA as the regulator, to impose more restrictions on the common bond requirement?

Answer. NCUA has recently completed a review of its chartering policies and has a made proposed manual available for public comment. The manual makes clear that charters will be approved at the lowest level that is economically feasible. Organizations or groups that want to form a credit union are required to meet strict chartering guidelines.

CLOSING REMARKS

Senator MIKULSKI. We thank you. We look forward to working with you, and though there are some warts and potholes, we think you're doing a good job and we want to make sure everybody stays on one track.

Thank you, and thank you for your candor.

SUBCOMMITTEE RECESS

The subcommittee will now stand in recess until this coming Thursday, March 16, at 10 a.m. when the subcommittee will receive testimony from the Consumer Product Safety Commission, the Office of Consumer Affairs and DHS, and the Consumer Information Center and the GSA.

[Whereupon, at 3:55 p.m. Monday, March 13, the subcommittee was recessed, to reconvene at 10 a.m., Thursday, March 16.]

VA, HUD, AND INDEPENDENT AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1990

THURSDAY, MARCH 16, 1989

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10:05 a.m. in room SD-116, Dirksen Senate Office Building, Hon. Barbara A. Mikulski (chairman) presiding.

Present: Senators Mikulski, D'Amato, Fowler, and Grassley.

CONSUMER PRODUCT SAFETY COMMISSION

STATEMENT OF ANNE GRAHAM, ACTING CHAIRMAN

ACCOMPANIED BY:

CAROL G. DAWSON, COMMISSIONER
THOMAS W. MURR, JR., ACTING EXECUTIVE DIRECTOR
SUSAN BIRENBAUM, ACTING GENERAL COUNSEL

OPENING REMARKS OF SENATOR MIKULSKI

Senator MIKULSKI. The subcommittee will come to order.

The subcommittee meets today to consider the budgets for the three agencies within its jurisdiction that deal with consumer issues: the Consumer Product Safety Commission, the HHS' Office of Consumer Affairs, and GSA's Consumer Information Center.

I know that we have the Consumer Product Safety Commission right before us and that also in the room, I presume, are the Office of Consumer Affairs and GSA's Consumer Information Center.

For me this is a really interesting group of people to conduct our appropriations hearings on because its whole focus is on the consumer. The reason I grouped three agencies together is so that we could get an overall picture of what the Federal Government was doing in providing self-help tools to the American people in order that they could make wise choices about their lives.

Many people lose the fact of why are they in this subcommittee. This is a subcommittee called VA, HUD and Independent Agencies. It's now VA thanks to the efforts of our veterans. As of this week they became a Cabinet and we gave them special status in our meeting. But this is also the subcommittee that is supposed to oversee the independent agencies established by the Federal Government.

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CONSUMERS' VOICE MEANT TO BE HEARD

We have the Consumer Product Safety Commission and then one would say, why is the Office of Consumer Affairs here and not in Senator Harkin's committee at HHS and why is the Consumer Information Center here and not over at the GSA and Treasury/Post Office. It's because it was meant that the voice of the consumer should be independent and it should have an independent status and not follow an ideological tilt and it should not follow that of a particular partisan viewpoint. It was meant to be an independent agency.

If it was meant to follow something that was going to have a say in direction or was based on which party won the election, it would be in a different place. But it was very clear that when we put the Consumer Product Safety Commission, the Office of Consumer Affairs at HHS, and the Consumer Information Center here, it was Congress' way of organizing it in a way that the voice of the Government to provide self-help tools for the consumer would be independent. That doesn't mean autonomous, that doesn't mean rogue elephants or whatever, but it was meant that the consumer should be protected.

It is this committee's viewpoint and it is the view of, I believe, the Senate Appropriations on this matter, that consumers have a right to be heard. They have a right to know and they have a right to be protected. We can't regulate everything in the world and we don't want to regulate anything in the world. We believe that the best regulatory framework is the freedom of choice of individual consumers properly informed to know what their own individual needs are.

So that's really what this philosophy is, and this is what we believe is the philosophy of the agencies you represent. We want to do all we can to preserve your independence, recognizing also that you are not autonomous, and that's not what you or I would seek.

We are going to be very interested in hearing what your missions are for fiscal year 1990 and the resources that you need to accomplish that.

So having said that, the committee is pleased to welcome as its first witness Ms. Anne Graham, the Acting Chair of the Consumer Product Safety Commission. The CPSC was established in 1973 as an independent agency to help protect the public from any unreasonable risks from consumer products. This is not a risk-free society, but unreasonable risk is another issue.

BUDGET REQUEST

The Commission is requesting $33,479,000 for salaries and expenses, a decrease below the fiscal year 1989 appropriation. While the proposed reduction for fiscal 1990 might not appear to be significant, we are concerned that it might mask the fact that the Commission has declined in real terms since its first appropriation in 1974. In 1974 under Gerald Ford, the Consumer Product Safety Commission was funded at $3.8 million. Exactly 15 years later in the Bush administration it is requesting a funding of less than what it was under Gerry Ford. We, of course, are interested as to why.

I'm concerned about reducing the resources made available for the Commission because in recent years we have been highly critical of the Commission's work. It would seem that in order for us to be fairer to the Consumer Product Safety Commission we need to make sure they have the resources available to do what we ask of them.

So we are very interested in hearing your testimony and, Ms. Graham, do you want to introduce those with you.

Ms. GRAHAM. I would be happy to.

INTRODUCTION OF ASSOCIATES

To my left is my colleague, Commissioner Carol Dawson to my far right is the Acting General Counsel, Susan Birenbaum; and to my right is the Acting Executive Director, Tom Murr.

Senator MIKULSKI. We look forward to your testimony. We are going to ask that you do this within about 10 minutes so we can have some questions.

Ms. GRAHAM. I would be happy to. Commissioner Dawson and I have a joint statement which I would appreciate being put in the record, but I will highlight it, Madam Chair.

Senator MIKULSKI. Sure.

STATEMENT HIGHLIGHTED

Ms. GRAHAM. Commissioner Dawson and I appreciate having the opportunity to appear before the subcommittee on behalf of the Consumer Product Safety Commission's appropriation for fiscal year 1990.

The Commission is small, but the responsibilities are enormous. The Commission has been committed to reducing deaths and injuries associated with approximately 15,000 types of consumer products.

The request before you has been submitted in accord with the President's budget and the OMB mark which, as you pointed out, provides $33,479,000 and 519 FTE's. This funding request for fiscal year 1990 is about $1 million less than our current appropriations with no reductions in FTE's. The resources requested in this budget will allow the Commission to accomplish the work described in the budget justification document, provided that no unforeseen needs arise.

This appropriations request contains the limitation on compensation for Commissioners so that only three Commissioners may serve in fiscal year 1990, continuing a provision that has been in our budget for the last 3 years.

COLLEGIAL NATURE FAVORED

There is also a proposed change in the appropriations language that would diminish the collegial nature of the Commission by giving the chairman full authority until the agency is reauthorized. As Commissioner Dawson and I have consistently stated, we continue to favor a collegial structure. Such a structure provides flexibility, independence, and diversity of opinion needed to address the Commission's important safety issues.

Our responsibilities require the philosophical, political, and practical considerations that only a collegial structure containing checks and balances can provide. Should the Commission remain a three-member body, a quorum change from three to two would strengthen the ability of the body to resolve matters on the agenda expeditiously.

PRIORITY PROJECTS

Madam Chair, prior to the adoption of the budget, after a careful review of staff recommendations and public comments, the Commission selected four priority projects for fiscal year 1990: child drowning and diving injuries, section 15 activities, playground equipment, and cigarette lighters. Commissioner Dawson and I strongly support these priority projects. Due to the reduced contract funding, they may not now be considered fully funded consistent with previous appropriations language. While these four areas will still leave projects in fiscal year 1990, they are but a portion of our ongoing work.

MAJOR ACCOMPLISHMENTS

The Commission has had several major accomplishments during the past year. Those include enforcement of the ATV consent decree, a ban on lawn darts, participation in the import surveillance program with the U.S. Customs Service, and involvement with the Safe Kids Program.

Finally, Madam Chair, I believe that the Commission is at a crossroad. We have a real opportunity to reinvigorate and energize the Commission and move forward to address the important safety issues before us. I believe Americans have the right to believe that the products they buy are safe.

I look forward to working with you and the members of your subcommittee.

Commissioner Dawson and I would be happy to try to answer any questions you have.

[The statement follows:]

JOINT STATEMENT OF ANNE GRAHAM, ACTING CHAIRMAN, AND CAROL DAWSON, COMMISSIONER

Madam Chair, Commissioner Dawson and I appreciate having an opportunity to appear before the Subcommittee on behalf of the Consumer Product Safety Commission's appropriation request for fiscal year 1990. The Consumer Product Safety Commission is small, but has an important mandate to protect consumers from "unreasonable risks of injury" associated with consumer products. The Commission has been committed to reducing deaths and injuries associated with approximately 15,000 types of consumer products under its jurisdiction. With the Commission playing a major role, the death rate from consumer products has declined approximately 25 percent since the first year of our establishment.

The following is a brief overview of the Commission's initial budget request, the Commission's efforts to meet the Office of Management and Budget's [OMB's] budget mark, and the impact of the reductions on our activities. Later, we will address the Commission's accomplishments and fiscal year 1990 priority projects, among other issues.

OVERVIEW

The request before you has been submitted in accord with the President's budget and the OMB mark, which provides $33,479,000 and 519 FTE's. This funding request

for fiscal year 1990 is about a million dollars less than current appropriations with no reductions in FTE's. The resources requested in this budget will allow the Commission to accomplish the work described in the budget justification document, provided no unforeseen needs arise.

COLLEGIAL STRUCTURE

This appropriations request contains the limitation on compensation for Commissioners so that only three Commissioners serve in 1990, continuing a provision that has been in our budget for the last 3 years, counting 1989. There is also a proposed change in the appropriation language that would diminish the collegial nature of the Commission by giving the Chairman full authority until the agency is reauthorized. As Commissioner Dawson and I have consistently stated, we continue to favor a collegial structure. Such a structure provides the flexibility, independence and diversity of opinion needed to address the Commission's important safety issues. Our responsibilities require the philosophical, political and practical considerations that only a collegial structure containing checks and balances can provide. Should the Commission remain a three member body, a quorum change from three to two would strengthen the ability of the body to resolve matters on the agenda expeditiously.

PROJECTS

Madam Chair, prior to the adoption of the budget, after a careful review of staff recommendations and public comments, the Commission selected four priority projects for FY 1990: 1) Child Drowning and Diving Injuries, 2) Section 15 Activities, 3) Playground Equipment, and (4 Cigarette Lighters.

1. *Child Drowning and Diving Injuries.*—This project continues the Commission's intensive efforts to reduce risks of young children drowning in residential swimming pools. For fiscal years 1989 and 1990, a second component will be added to this project, addressing the hazards of death and paralysis resulting from diving accidents. Drowning is the second leading cause of accidental death in the home for children under five, trailing only those deaths caused by fire. In 1986, the most recent year for which data are available, over 300 children under the age of five drowned in residential swimming pools. In 1987, an estimated 4,200 children under the age of five were treated in hospital emergency rooms as near-drowning victims. There are 500–700 spinal cord injuries each year resulting from diving accidents involving people of all ages.

2. *Section 15 Activities.*—Enforcement activities under Section 15 of the Consumer Product Safety Act (CPSA) and the Federal Hazardous Substances Act (FHSA) continue to be one of the most important Commission activities. In fiscal year 1990, the Commission's ability to discover unsafe consumer products will be increased by: 1) conducting an industry-wide awareness campaign designed to increase reporting under Section 15(b) of the CPSA, 2) identifying and developing additional sources to report unsafe products, and 3) expediting the handling and development of Section 15 cases. Most importantly, by selecting Section 15 as a priority project, the Commission sent an important message to industry, the public, and Congress that the Federal Government is serious about actively identifying unsafe products.

3. *Playground Equipment.*—This will continue the work started during the current fiscal year. It is designed to complete the technical work and use the results to revise the two-volume playground equipment handbook for elementary-school age children developed in 1980. This two-volume set will be expanded to cover equipment designed for toddlers and preschool children in the format of model codes that could be adopted by state and local jurisdictions. The Commission will also continue to participate in three voluntary standards currently being developed or revised for home and public playground equipment and playground surfacing materials.

4. *Cigarette Lighters.*—In March 1988, an advance notice of proposed rulemaking (ANPR) was published to begin proceedings for a child-resistant lighter rule. This action was taken as a result of data showing a large number of deaths caused by children playing with lighters. It is estimated that 170 such deaths occurred in 1986, and 90 percent of these victim's were under the age of five. A test panel protocol for evaluating modifications to improve child-resistance is being developed and pilot tested. These activities and analysis of the ANPR comments will be among next year's activities.

Commissioner Dawson and I strongly support these priority projects. Due to reduced contract funding, they might not now be considered fully funded consistent with previous appropriations language. While these four areas will still be the lead projects for FY 1990, they are but a portion of our ongoing work. It is of more than

passing interest, however, that three of the four priority projects for the next fiscal year involve hazards related to children, the most vulnerable segment of our population.

SCOPE OF ACTIVITIES

Hazard Assessment and Reduction and Analysis and Compliance and Enforcement are the backbone of the Commission's work.

The Hazard Assessment and Reduction and Analysis program encompasses all those Commission actions, aside from enforcement activities, to reduce the unreasonable risks of injury from consumer products. This is done through a balanced set or projects ranging from chemical, fire, electrical and power equipment projects to children's products.

The goal of the Commission's Compliance and Enforcement program is to ensure that firms comply with the laws, regulations and standards that protect consumers from hazardous products. The Compliance program remains the most extensive in the Commission. Much compliance support is in the field, with 103 of the 150 field FTE's dedicated to the compliance effort. The agency's three main compliance activities include: 1) enforcing compliance with mandatory safety standards, 2) obtaining corrections of violations and hazardous products and, where applicable, removing such products from the marketplace or consumers hands, and 3) keeping industry informed of Commission requirements for its products.

COMMISSION ACCOMPLISHMENTS AND 1990 ACTIVITIES

The Commission has had several major accomplishments during the past year.

In April 1988, the court approved a consent decree with the ATV industry which included a stop sale of three-wheeled ATV's and required warning labels, a safety awareness program utilizing print and television media, free training, and mandatory labeling recommending against the use of adult sized ATV's by children under the age of 16.

The Commission is continuing the monitoring and enforcement of these provisions. In doing this, we have worked closely with state governments. The Commission staff's monitoring effort in FY 1990 will focus primarily on serious violations of the ATV consent decree.

In October, the Commission also accepted a voluntary standard for ATV's, covering most of the areas the Commission had identified as important, with the exception of lateral stability. It was agreed that an interim lateral stability value would eventually be replaced by a new one, either developed by industry or the Consumer Product Safety Commission. During 1990, our engineering staff will continue to address the lateral stability and transient handling issues, and injury data collection will continue. Finally, if industry fails to develop or adjust the lateral stability standard, the Commission staff will prepare the analysis necessary for a notice of proposed rulemaking for lateral stability.

The Commission continues to participate in an important surveillance program with the U.S. Customs Service. This joint activity has focused on identifying imported consumer goods that violate safety standards and preventing these goods from entering American markets. This program has been especially successful in helping to protect children from hazardous imported products. For example, in the first three months of this fiscal year, over 260,000 violative toys were found as a result of the program. They include violations of the small parts, rattle, and lead-in-paint regulations. In addition, this program has prevented many violative fireworks, toys, bicycles, and children's sleepwear from entering the American market place. For example, in the fiscal year ending last fall we prevented entry of 836 shipments totalling over 85 million units of products that violated CPSC regulations. These products had a retail value of more than $11.2 million. The Commission's work with Customs has the double effect of reaching 100 percent of violative goods in the targeted shipment as well as sending a clear message to foreign manufacturers, shippers, and importers that such CPSC-Customs inspections will occur unannounced at any time at any American dock.

Another joint activity between CPSC and outside parties is our involvement in the "Safe Kids" program. This campaign on childhood injury prevention includes over 60 coalitions dedicated to accident prevention primarily through educational efforts. The Commission has major projects which address four out of the five areas covered by the "Safe Kids" campaign. The Commission is highlighting these same areas either through priority projects, rulemaking efforts, or voluntary standards activities. We believe this coalition of Federal and state agencies, professional asso-

ciations, industry, and individuals is an excellent example of how joint initiatives can have a positive impact on accident prevention.

The Commission has successfully implemented a multifaceted effort to enforce the ban of lawn darts which became effective December 19, 1988. We use import surveillance which includes state officials, as well as consumer groups, domestic surveillance, and we respond to reports indicating possible violations. The majority of retailers who have been contacted reported knowing about the ban and returning any lawn darts in stock to the original distributor. Eight retail violations were found each involving less than 10 packages of lawn darts.

CONCLUSION

There are many other activities at the Commission—and, I might add, many successes—that could be discussed at length. However, the budget document which we have submitted to you reviews in some detail the highlights of our funding request and activities to be supported.

We would be pleased to answer any questions you may have.

Senator MIKULSKI. Thank you very much, and when we ask our questions, please we welcome the comments of both of you.

The Chair would like to welcome Senator D'Amato who has been doing a very special service this week and asking some very tough questions on terrorism in another Subcommittee on Transportation, and also with the housing bill that he introduced with Senator Cranston yesterday.

Senator D'Amato, before I start my questions, do you have an opening statement that you wanted to make, or do you want to wait until we turn to you?

OPENING STATEMENT OF SENATOR D'AMATO

Senator D'AMATO. Madam Chairperson, I have a very short opening statement.

It's good to see the Commissioners here, and I'm particularly pleased to have our new Acting Chairperson, Anne Graham. I hope that soon you will be our permanent Chairperson. In this Senator's opinion, which I know is shared by many, you have a provided a much needed breath of fresh air to this agency and a welcome departure from the political shenanigans and in-fighting that have plagued the agency under its former leadership.

Never again should the Consumer Product Safety Commission become hostage to a rigid anticonsumer ideology. I believe that you and your colleague who is here with us today have done much to fight to safeguard the American consumer.

I look forward to working with our chairperson to assure that this continues to take place and wish you every success in this undertaking.

Ms. GRAHAM. Thank you very much.

Senator MIKULSKI. Thank you, Senator D'Amato.

PROTECTION FOR CHILDREN AND THE ELDERLY

First I would like to go to just a couple of things that I think we can agree upon. We reviewed your undertakings, the priorities that you have established for yourself both in terms of the new projects as well as the ongoing monitoring and so on, which I think we absolutely support. We think it's particularly outstanding that you have undertaken the consumer protection oversight on those products that particularly affect children and the elderly, the inflam-

mable product notification of sleep wear for the elderly. But, again, whether it's children's toys, children's playground equipment and so on, I think it's extremely important to do that.

QUORUM REQUIREMENTS

Second, you go into the conversation about the collegial structure, the quorums and all of that. Has that all been worked out, or do we need to do something on that? I know it's not necessarily the function of the Appropriations Committee, though it did reduce the number of Commissioners.

Ms. GRAHAM. Madam Chair, we have had both of our reauthorization hearings at this point, and we have discussed the problem that we now lack a quorum. Further, the other two Commissioner slots have not been appropriated. It's reasonable to believe that we are going to stay a three-member body and, therefore, we need the quorum changed to two rather than the current three.

Senator MIKULSKI. And if you remain a three-person body, or whatever way the authorizing chooses to decide, what do you need to change the quorum requirements?

Ms. GRAHAM. We need a technical amendment or a provision in the reauthorization bill.

Ms. DAWSON. We just need a statutory change there. Right now the statute reads that it requires three members to do business, and that, of course, was based on the fact that we used to have five Commissioners. So I really believe that a two-member quorum as a provision of the new authorization bill would go a long way toward solving the problem that we have right now.

Senator MIKULSKI. Well, anyone who is a Member of the U.S. Congress or the U.S. Senate, of course, would support the idea of a collegial decisionmaking body. I think we welcome the diverse opinions. When I was on the authorizing committee under the Waxman subcommittee, certainly a Congresswoman Mikulski and a Congressman Madigan had some differing views, but the very collegial nature, I think, added to a richness of discussion and far more comprehensive decisionmaking. So we think there needs to be that type of collegiality, particularly on consumer safety.

Senator D'AMATO. Madam Chairman, if I might, if you would yield, I think that the problem is even graver and that the chairman has touched on something of great magnitude. I have been informed that given the present status the Commission legally can't even issue subpoenas as a result of their only having two members and not having a quorum.

Senator MIKULSKI. That's right.

NEED FOR THIRD MEMBER

Senator D'AMATO. I would hope, and I certainly would join with you in sending a letter to the administration that calls this to their attention. A third member should be designated as quickly as possible and approved. This important enforcement tool, the issuance of a subpoena, may not be necessary in certain cases. However, where it is necessary, it should be available to the Commission. Without it there are certain manufacturers, et cetera, who simply are not going to heed the Commission.

Senator MIKULSKI. I think the Senator and I, again in the collegial structure, are on the same wavelength. We think you should have the resources to do your job, and one of which, of course, is to be able to meet your legal and statutory requirements to issue directives, to administer the programs, and to come to decisions and recommendations.

What we will undertake is a letter to the administration promptly urging the appointment of the third Commissioner. We will circulate this among the subcommittee because we think this is a bipartisan stance in order for an independent agency to be able to function.

We will then of course yield to the reauthorizing committee as to what they think the nature of the structure and so on should be, but we want to help, shall we say, to kind of get it moving because now, regardless of what your views might be, you can't act on those views.

Ms. GRAHAM. That is correct.

Senator MIKULSKI. So would that be helpful to you?

Ms. GRAHAM. We would appreciate that.

Senator MIKULSKI. My other question is, and not to get into the role of the authorizer, we have appropriated three. Do you think the authorizing committees are going to recommend three or five Commissioners, or is it too early to tell?

Ms. GRAHAM. There is a diversity of opinion among the members.

Senator MIKULSKI. Well, we know that authorizing committees have diversified views as well. We'll look forward to their decisionmaking on that, but what we will then do is try to at least promptly make sure that you have the people for which you are currently appropriated and will in fiscal 1990.

We thank the Senator from New York for joining with us.

OMB REQUEST

Let me go to the OMB request. You are requesting $33.5 million. Could you tell us what your original request was to OMB?

Ms. GRAHAM. It was $36.5 million.

Senator MIKULSKI. And where did OMB make the cuts?

Ms. GRAHAM. They didn't make the cuts; we made the cuts ourselves. The cuts included eliminating all our hazard contracts, eliminating State and local contracts for consumer education, and a reduction in our funding to monitor the ATV consent decree.

Senator MIKULSKI. How devastating do you think that reduction of $3 million will be in terms of your ability to do your job?

Ms. GRAHAM. Well, I have two overriding concerns. First of all, we had to eliminate the hazard contracts in our priority projects, and Congress has told us that they expect our priority projects to be fully funded. Second, we have to delay some rulemaking. For example, the butane lighter exposure survey will not be done next year.

I said two, but I'll give you three examples. I'm also a bit concerned about monitoring the ATV consent decree because overall our problem will be that we really have no flexibility if any unexpected problems arise.

Senator MIKULSKI. That was my question.

And, of course, Ms. Dawson, I'm going to ask you to comment, too, if you care to, recognizing the collegial structure of the Commission.

UNANTICIPATED EVENTS

My concern is also that of the unanticipated event. Something that has struck our society now over the last few days though that would not be affecting you, of course, is the grape poisoning issue. Any number of things could come to our attention—and you're not a FEMA, a civil defense agency on consumers, but in a way one never knows. A child is injured or a death occurs and if it seems to be then rooted in a faulty device or whatever, we are going to turn to you.

If that occurred, how would you be able to respond?

Ms. GRAHAM. Well, it would depend upon the gravity of the situation. If we possibly could, we would redirect resources. If it was a serious enough problem and we couldn't address it ourselves, we would come back and ask for a supplemental.

Senator MIKULSKI. But you know what it takes to do a supplemental.

Ms. GRAHAM. I know.

Senator MIKULSKI. Is there enough within the agency to reprogram in the event of a national emergency?

Ms. GRAHAM. We would have to eliminate other programs and projects.

Senator MIKULSKI. So you're pretty lean.

Ms. GRAHAM. We are very lean.

Senator MIKULSKI. Did you want to comment, Ms. Dawson?

Ms. DAWSON. I would just add the comment that we have tried to preserve the programs that we think are the most critical to this country, and at the same time not cut back on our staff because we have, quite frankly, a dedicated career staff.

Senator MIKULSKI. Absolutely.

Ms. DAWSON. I think the American people don't really appreciate or understand how much work goes on by these people. Our alternative was to cut staff, and we did not want to do that. So what we have done is eliminate only those projects which didn't rise to the level of a severe hazard. At the same time, we appreciate the fact that there is a Federal deficit and we have to do our part, and we have done quite a bit.

Senator MIKULSKI. What you're saying is that you're coming before us with an official request of $33.5 million and your original trip to OMB was $36.5 million, and that $33.5 million is absolutely the skimpiest circumstances or bare minimum that you could operate on and that there is really very little cushion in the event that we would have to turn to you. Am I accurate?

Ms. DAWSON. I think that's accurate.

Senator MIKULSKI. My time has expired for the 10 minutes. I'm going to turn to my colleague from New York. I would like to just share an observation with my colleague from New York because he came in.

The Consumer Product Safety Organization was developed in the past during a Republican administration, and under Gerry Ford's

budget of fiscal year 1974 the Consumer Product Safety Commission was funded at $34 million. Now 15 years later with more demands and an even more complex at-risk society we are asking them to function at that. That's not a speech. It's just sometimes a tidbit that really gives one concern.

SUPPLEMENTAL FUNDING

Senator D'AMATO. Madam Chairman, I honestly believe that the Commissioners should propose, and we should support, a request for supplemental funding. I am very much concerned that some of the safety projects that should be undertaken are not going to be done adequately. That is this Senator's concern. Let me try to develop that, if I might.

ALL-TERRAIN VEHICLES

It has been almost a year since Judge Gezell of the U.S. district court ruled on the consent degree negotiated among the Commissioners, the Department of Justice, and the five all-terrain vehicle [ATV] distributors. What are the most recent numbers or statistics that you have concerning ATV deaths and injuries?

Ms. GRAHAM. Our most recent figures, Senator, would pretty much document that from the beginning of the preliminary consent decree there have been 161 deaths and 62,800 injuries.

Senator D'AMATO. 62,800 injuries. Now last December the Consumer Product Safety Commission conducted a survey of ATV dealers in Virginia that showed that approximately 70 percent of the dealerships were not following the age recommendations of the consent decree. These provisions include specific advice to address the hazard to children. Almost half of the deaths occur to youngsters.

What are you doing to address this problem?

Ms. GRAHAM. We have met with industry. The distributors have sent mailgrams to the dealers to stress the importance of the age recommendations. They have held some regional conferences, and we have asked distributors to come up with a mechanism by which they could pull a dealership if they were misrepresenting the age limitations. We are still in the negotiating process on that, although one industry has agreed to put a self-stamped envelope on the front of the training manual so that they can communicate directly with the purchaser vis-a-vis age representations.

Senator D'AMATO. Have you indicated the problem to the Department of Justice?

Ms. GRAHAM. Let me refer to my Acting General Counsel, please.

Ms. BIRENBAUM. Senator, at this time we are still in the process of talking to the various distributors about what effective means can be taken to address this extremely serious problem, but if something could not be worked out with them that we believe would be effective, I believe we would have to inform the Department of Justice.

CONSENT DECREE IGNORED

Senator D'AMATO. Well, at the risk of offending those distributors and the Japanese companies that produce this product, we have had 161 deaths during this period of time and 62,000 injuries. Many of them involve children. It just seems to me that the Department of Justice should be put on notice, and I would request that you do that. I'm not coming down on you. I'm tired of negotiating with myself, and that's what we find ourselves doing. In all good faith, it just seems to me that you're spinning your wheels. I would like you to document the kind of case that you can bring to Judge Gezell, if necessary, to show that the consent decree is not being adhered to.

I would ask you to inform this committee in writing as to the status and as to the lack of compliance that you have found. If 70 percent of the dealers in Virginia aren't following through on the decree, I would like to know what that figure is nationwide. Now I understand you have limited resources, but maybe the Justice Department itself should take a survey of this. Maybe we should go in and ask that the dollars for a survey come from the dealers. They are selling close to $1 billion worth of these machines annually. They've got plenty of money, and it would just seem to me that there are a variety of mechanisms that can and should be used

You should not be just internalizing this and attempting to do something. I'll tell you how you get something done—you expose it publicly.

Now I think this Committee, Madam Chair, should help in this matter, and I would request that your Acting General Counsel send us a detailed report as to what the survey contains, what we have been able to get in the way of compliance. If you find the industry not complying as it relates to this consent decree, I for one will take this matter to the judge. I intervened before. I feel very strongly about it.

I think this is just another example of people who just don't give a damn about the safety of our kids and the safety of the public They put their profits well above what is right and what is fair as it relates to the safety of our kids.

So I would hope that you would furnish this, and I know the Chair feels very strongly as it relates to these matters. This is flaunting a judicial decree, that's exactly what it is. I want to tell you Judge Gezell is not one who will sit back. I have absolute confidence that he will see to it that justice is done, but you've got to let us know.

Now are there any other areas as it relates to the decree that you find problems with in terms of their compliance?

Ms. GRAHAM. Senator, no. On the other matters we are doing fairly well. The problem, as you know, is that I believed this to be a bad consent decree from the start.

Senator D'AMATO. So do I.

Ms. GRAHAM. We are making the best of a bad situation, but they are complying with the media standards, the training, and all the other provisions of the consent decree.

Senator D'AMATO. Well, I think the statistics bear out that there has been no diminution as it relates to the deaths and the acci-

dents that continue. If you would at least send us that information and an outline as to those areas of the decree where there is compliance and what the compliance has been, we can at least set a record.

Ms. GRAHAM. We will do our best.

Senator D'AMATO. Thank you, Madam Chairman.

Senator MIKULSKI. Senator D'Amato, those questions were absolutely superb. They followed much along the line that I had thought we would get to in my own second line, and you, of course, were in the first line of defense.

We feel very strongly about your ability to be able to monitor and fulfill essentially your responsibilities related to these all-terrain vehicles. This then of course comes back to the resources. We would like you to comply with Senator D'Amato's request because it's really, though originated by D'Amato, it is really a request of the Subcommittee.

This is an important kind of an example of where the Consumer Products Safety Commission took a problem, analyzed it, and followed through in terms of what it's responsibility was and then it moved onto another area. We have got to make this one work, even it's a decree with potholes in it because it then stands for what we will be doing in other areas.

[CLERK'S NOTE: The information is provided in the question and answer section.]

HAZARDOUS CONTRACT FUNDS

Senator MIKULSKI. When I come back to my questioning—and Senator Fowler is going to take over now—we're going to take about hazardous contract funds. There is a new device on the market that I see operating on the rivers and in some of the Chesapeake Bay. They are what they call these jet skis. Have you seen them? They look like something out of a James Bond thriller. Now they might be the greatest thing for people to have a good time on the water. It's not my style.

Senator D'AMATO. Your colleague has tried, but I have never made it up on one of those. [Laughter.]

Senator MIKULSKI. It's a little speed boat that you run like a motor scooter. Have you seen those?

Ms. GRAHAM. I don't believe I have actually seen them.

Senator MIKULSKI. Well, when we get you up to staff and you can get a quorum, I'll take you around and show you one.

Ms. GRAHAM. Thank you.

Senator MIKULSKI. They might be great, I don't know, but I'll tell you there are a lot out there.

The Committee welcomes Senator Fowler. Do you have an opening statement or any questions of these witnesses?

Senator FOWLER. I do not, Madam Chairman. I have some questions that I could ask. I apologize to my Chair for being late.

Since you have some specific questions, I yield my time to you right now.

Senator MIKULSKI. Just so the Senator is up to date, we'll fill you in.

The Consumer Products Safety Commission was authorized in 1973. Their first budget was fiscal year 1974 at close to $35 million under Gerry Ford, and they are coming in now for a budget of $33 million 15 years later. They have gone from a staff of 1,000 people at one point in about 1980 to about 519 people—career and civil servants—that we want to retain who have given us dedicated service. So that they have gone from 1,000 people to 519. So these are some of the issues we're looking at, what are they doing, how are they going to make it, and our concern is also the unanticipated event that they might have to investigate.

Now my question goes to something called the hazard contracts, which I understand you have had to shave or cut back considerably.

Ms. GRAHAM. We have eliminated all of them.

Senator MIKULSKI. Now the word "hazard contract" has no picture to it and it has no feeling. Could you tell us what the hazard contracts were which you have eliminated and what their purpose was, and again, of course, we would welcome comments from both of the Commissioners.

HAZARD CONTRACTS ELIMINATED

Ms. GRAHAM. Well, we have eliminated them across the board. My first concern would be the priority projects because in some cases this could delay the rulemaking, but in terms of the other hazard contracts, they include cigarette lighters, swimming and diving, gas heating systems, fire hazard assessment, the ATV standard, riding mowers, appliance overheating, bicycles, indoor air quality, and poison prevention.

Senator MIKULSKI. What have you had to eliminate in poison prevention?

CHILD RESISTANT CLOSURES

Ms. GRAHAM. We are trying to test and develop a new prototype for child resistant caps on prescriptions, and we won't be able to do that in this budget. We were trying to develop a test prototype to use with children to test how easily they can open prescription drugs.

Senator MIKULSKI. Do you mean the containers?

Ms. GRAHAM. Yes.

Ms. DAWSON. Perhaps I could add a little bit to that. It's a protocol test. In other words, right now there is a test using children, actual children with a time limit, giving them the container to determine whether they can open it and how long it will take them.

We are now considering a rulemaking to revise that protocol. The objective is to develop a new kind of child-resistant closure that is easier for adults to open. We have found that many adults are arthritic and have problems using the current types of child-resistant containers. We have also found in our surveys that a significant number of children were ingesting prescription medicines belonging to their grandparents or other older people.

This is the objective, and what we are trying to develop is a new protocol with which such closures will have to comply.

Senator MIKULSKI. Well, how will this elimination of hazard contracts affect your priority projects? For example, I know that one of your priority projects is playground equipment. Again, kids out there being rowdy and active and so on. How would this affect say that?

Ms. GRAHAM. It has two negative impacts on our playground equipment. First of all, we would not be able to publish our handbooks that are guides to playground safety, and we will not be able to distribute them.

Senator MIKULSKI. Are they printed?

Ms. GRAHAM. We are updating them right now.

Senator MIKULSKI. And who would you give them out to? Are these for parents or are these for recreation departments or community associations?

Ms. GRAHAM. We were trying to put together all of those, a national network with State and local officials to make sure that both public and private playgrounds were addressed. So it just guts that part of that project.

Senator MIKULSKI. I'm sure that the budgeteers would ask why you can't do that in-house and why do you have to have a contract to do that?

Ms. GRAHAM. That's what I said when I first came to the Commission.

Senator MIKULSKI. What do you say now?

INSUFFICIENT STAFF

Ms. GRAHAM. Well, what I say now, and I can say it with conviction, is that it's impossible because of the number of people that we have. We just don't have the resources in house to do that.

Senator MIKULSKI. So when you had a larger in-house staff you could, but now you rely a lot on contracts to do that.

Ms. GRAHAM. We do, yes.

Senator MIKULSKI. Ms. Dawson, do you want to comment on any of this?

Ms. DAWSON. On the playground——

Senator MIKULSKI. Well, actually on the whole issue of hazard contract funds and so on.

Senator FOWLER. If I may, Madam Chairman, tell us what you have in mind, budgets permitting, on the child drowning and diving injuries. What specifically do you want to do?

Senator MIKULSKI. Before we go to the child drowning, can we finish the playground?

Senator FOWLER. Oh, I'm sorry.

Ms. DAWSON. On the issue of the cutbacks in the hazard programs?

Senator MIKULSKI. Yes.

Ms. DAWSON. Well, it was of course a tough decision to make. As I said earlier, in determining where to cut, the only flexibility we had was in those areas. So in order to meet the budget mark, that's what was done. The staff can still accomplish some of these things, but it will take them longer.

Senator MIKULSKI. Take them longer and then the distribution will be limited and you'll have a harder time.

Ms. GRAHAM. That's right. It will almost be impossible because we only have nine people in our Information and Education Division.

PLAYGROUND EQUIPMENT

Senator MIKULSKI. That's the whole point of what the other 500 did. Do you know? I mean is the information out to the public? The whole reason we do these things is so that people, particularly on a volunteer basis, whether it's a recreation department out of city hall, whether it's a community association that's going to have a playground as part of its neighborhood, or parents who might be installing it in their back yards. It's the individual choices. It's not mandated and we're not talking about kiddy care communes here where we have to have one set of playgrounds, or one set of standard designs for playgrounds.

There is going to be a lot of manufacturing, a lot of private enterprise and a lot of private initiative for kids to be able to enjoy themselves and learn at playgrounds, and the people that are going to buy that equipment want to make informed choices so that the children at not at risk.

I'm sure this has a dramatic impact in terms of the liability insurance issue when people can say, "Well, we're following the Consumer Products Safety recommendations, we're making best available effort and we are in a very methodical way making sure we are going to have our kids have fun, but we're going to protect them at the same time." I would imagine that has far-reaching ramifications that are not ordinarily seen when you see red, green, and yellow swings. Am I right in that?

Ms. GRAHAM. It does, Madam Chair, and I would say that there is no point in our doing anything we do if we don't share that information with our constituents who are the American public. It goes from playground equipment to everything else that we're looking into.

Senator MIKULSKI. And how much would you need to restore the hazard contracts?

Ms. GRAHAM. On playground equipment——

Senator MIKULSKI. No, just on hazard contracts.

Ms. GRAHAM. $1.2 million.

Senator MIKULSKI. That answers my question.

Senator Fowler, do you want to follow up on your questions related to diving and other incidents.

Senator FOWLER. Thank you. Forgive me for interrupting.

Senator MIKULSKI. That's OK.

Senator FOWLER. I was late, forgive me, but tell in layman's terms what is a hazard contract?

Ms. GRAHAM. It's technical and support work for a project, and in the case of swimming and diving, that's one of the projects that we have identified as a priority.

Senator FOWLER. You mean it's privately contracted and it's a subcontract to do a particular piece of work? That's what it is?

Ms. GRAHAM. Yes.

DIVING AND CHILD DROWNING PREVENTION

Senator FOWLER. What do you have in mind to contract out for diving and child drowning prevention?

Ms. GRAHAM. On the diving project we would need to purchase data on the injuries and also have some consulting on the dynamics of diving. We were also anticipating doing a video news release on safety with pools and diving which we won't be able to do.

Senator FOWLER. When you say purchase data, how did this become a priority? I assume you already have all the data you need to make a decision that that was a high public problem that needed to be addressed.

Ms. GRAHAM. We do have a data system called NEISS where we get information from hospital emergency rooms, but frequently when we are looking at a priority project, particularly if we need to consider regulation, we need to get additional information on the severity of the problem.

Ms. DAWSON. I would like to comment on that. Back in 1985 the Commission first recognized the problem of childhood drowning. It is the second leading cause of death among children under five in this country, and the Johns Hopkins study that was just released a couple of weeks ago confirmed that.

Senator MIKULSKI. On the cause of death among children?

Ms. DAWSON. That's right.

Senator MIKULSKI. One is homocide and then the other is drowning.

Ms. DAWSON. It's also one of the priorities of the Safe Kids campaign, for example. In 1985, the Commission cosponsored a conference on this issue with the National Spa and Pool Institute, which is a trade organization, bringing together people from all over the country, State and local jurisdictions, doctors, nurses, parents, and others who were involved in aquatic sports.

I think it's one of the stories that needs to be told more often. We're only one part of the effort that is going on. We have joined together with many other groups forming the National Swimming Pool Safety Committee. It's not just the numbers of children who drown every year, but it's those who are near-drownings victims left brain injured requiring costly health care.

We are going to continue with this project even without the contract funds because there are activities that will continue.

Senator FOWLER. Is it just an education program?

Ms. DAWSON. No, it isn't.

Senator FOWLER. Well, if we're going to help you, you're going to have to convince us of specifically what you're going to do the funds, and I haven't heard that yet.

MODEL CODE ON BARRIERS

Ms. DAWSON. I'm glad you asked that. One of the most important things that we have been able to do is to develop a model code dealing with barriers. We have found through our surveys that the more barriers you have between the pool and the child——

Senator MIKULSKI. Shrubs and trees.

Ms. DAWSON [continuing]. Fencing mainly, and good latches and gates, for example. We are currently submitting that model code to

the National Conference on Building Codes and recommending its adoption. Of course, this isn't an area where we can just make a rule and impose a single solution. This is something which we have to encourage states and localities to do, and, happily, many of them are beginning to do that.

POOL COVERS

Another area we are working on is the area of pool covers. There are a significant number of deaths and injuries associated with them because children sometimes fall into a pool and slip under the pool cover, and consequently they are not seen, resulting in a drowning. There is a standard that is being developed on pool covers, and it is my understanding it is almost in the final stages. So I believe that is an accomplishment.

DIVING INJURIES

We are just getting into the diving area, and, of course, what we see in diving injuries are paraplegia and spinal cord injuries, which cost society a great deal. We don't have all the necessary data yet. We need to develop more data and it will be costly, but I think it will have a positive impact in the long term.

Senator FOWLER. Do you anticipate asking as part of the contract with the private contractor to develop the kind of handbook for residential swimming pool owners, I guess a similar handbook to the one you have on the playground injuries?

Ms. DAWSON. We already have some literature, Senator Fowler, and it's being distributed not only by us, but by industry groups, for example, and by other state and local groups. There are quite a few grassroots organizations that are doing this on their own as well as with our cooperation.

Senator FOWLER. I certainly applaud the information and the education on building codes. As you know, people that now have swimming pools say that if you have a swimming pool your house is going to be worth about 30 percent less than houses without swimming pools. The relators all publish those figures now. Most people don't want a swimming pool because of insurance and the perceived liability from children other than their own wandering in and having an accident.

Ms. DAWSON. Our data shows that it's usually not the neighbor's child; it's more often the child that lives in the house.

Senator FOWLER. Right. That's what I mentioned. If you get the money to pursue your No. 1 priority, besides from the education on building codes, is it directed towards the residential homeowner——

Ms. DAWSON. Yes, it is.

Senator FOWLER [continuing]. And, if so, in what specific way?

Ms. GRAHAM. We are particularly looking at injury data on diving in this particular project and how we could change the configuration of the pool or what precautions we could take in order to reduce diving problems or accidents.

Ms. DAWSON. For example, studies to develop adequate warning signs around pools about depth and whether or not to dive, and studies on types and configurations of pools, for example.

Senator FOWLER. Thank you very much.

Senator MIKULSKI. Thank you.

I think the subcommittee has found this hearing very informative.

Again, we would like to thank you for your important contribution to this country, and we would hope that in our way we can expedite help on the kind of internal problems you have because of the lack of third Commissioner, because you need to spend your energy worrying about consumers and not whether you have a quorum or not, and we would like to help you out in doing that.

Again, many thanks and we look forward to working with you as we finalize our budget.

Ms. GRAHAM. Thank you very much, and we do, too.

SUBMITTED QUESTIONS

Senator MIKULSKI. We do have additional questions that we will submit for the record. Our time is moving along.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR MIKULSKI
ANSWERED BY ACTING CHAIRMAN GRAHAM

COMMISSION STRUCTURE

SENATOR MIKULSKI: Although CPSC is authorized to have five Commissioners, the Appropriations Committees have restricted the number to three. You are currently functioning with just two Commissioners. How has that affected your operations?

You are required to have a quorum of three Commissioners for any official Commission action. How are you functioning without a quorum? Has this presented major problems so far?

ANSWER: In response to questions one and two, I believe that the day-to-day activities and operations that are important to the Commission's safety mission have and will continue. The Commission is continuing to work with industry on voluntary standards and is working to obtain voluntary corrective actions. In addition the Commission is still participating with U. S. Customs to inspect and when necessary to seize unsafe products at the docks. We are still collecting and analyzing injury data and working on hazard projects. There are of course a few activities which cannot take place. For example, we cannot obtain provisional acceptance of civil penalty settlements, issue administrative complaints and prevent exports of noncomplying goods seized by U. S. Customs. Should the Commission remain a three member body, a quorum change from three to two would strengthen the ability of the body to resolve matters on the agenda expeditiously.

SENATOR MIKULSKI: CPSC has had some serious management problems in the past several years. Do you think these problems have largely been solved?

ANSWER: Yes. I believe that one of the most important changes is an improvement in the staff's morale. When I became Acting Chairman, one of the first things I did was write the staff telling them that I had an open door policy and that they could tell me their concerns and offer their suggestions. I believe the memorandum and my meeting individual Associate Executive Directors and their staff have done much to increase morale during this transition period. I have made every effort to encourage candor and debate. Also, the clear bipartisan support for the Commission and the strong possibility of a reauthorization are both viewed very positively by the Commissioners and the staff.

AUTHORIZING LANGUAGE/SINGLE ADMINISTRATOR

SENATOR MIKULSKI: Your budget request proposes language which would in effect reduce the role of Commissioners to advisors to the Chairman, is that correct?

ANSWER: Yes.

SENATOR MIKULSKI: I understand that neither of you support the language. Why not?

ANSWER: Commissioner Dawson and I have consistently stated that we favor a collegial structure. We believe that a collegial structure provides the flexibility, independence and diversity of opinion needed to address the Commission's important health and

safety issues. The Commissioners responsibilities to the consumer and industry require the philosophical, political and practical considerations that only a collegial structure containing checks and balances can provide.

SENATOR MIKULSKI: Why is this language included in your budget request? Isn't this the bailiwick of the authorizing Committee?

ANSWER: No specific rationale was given on this matter. However, this decision should fall under the jurisdiction of the authorizing Committee.

SENATOR MIKULSKI: A 1987 GAO report concluded the CPSC would benefit from changing its structure to a single administrator and that this structure would save about $1 million a year. I have always found GAO to be very reliable. What was your response to this report?

ANSWER: Commissioner Dawson and I believe that a collegial structure providing flexibility, independence and diversity of opinion is important to a health and safety Agency, such as the CPSC. We believe these savings are outweighed by the accountability and thoughtfulness that is provided by the collegial structure.

SENATOR MIKULSKI: Given your tight budget, wouldn't the savings alone justify the single administrator structure?

ANSWER: Even though the Government could save approximately $500,000 ($250,000 per Commissioner and staff) Commissioner Dawson and I believe that the importance of debate, diversity of experience, and reasoned government decision that ensues from a collegial body outweigh the cost.

ALL-TERRAIN VEHICLES

SENATOR MIKULSKI: Ms. Graham, last year you testified before this Subcommittee that you believed the consent decree should include a refund provision for ATV owners. Are you still in support of this?

ANSWER: Yes, I am. I believe that ATV manufacturers have been lax in promoting the need for safety. I voted against the consent decree because I believe it does not go far enough in protecting the ATV riders especially children who continue to ride adult sized ATVs. Specifically, one of the concerns that I have with the consent agreement is that even though it includes the stop sale of 3-Wheeled ATVs because of their inherent danger, it does not provide any relief to the one to 1 to ½ million consumers who, unaware of the attendant risk, purchased those ATVs. I continue to believe that simple logic dictates that if the dangerous 3-Wheelers were removed from the market by providing a reasonable refund, injuries and deaths would be reduced.

SENATOR MIKULSKI: Four-Wheelers can still be sold. These are extremely dangerous vehicles, particularly for children under the age of 16. Page 33 of your justification says "there appears to be no difference between 3 and 4-Wheel ATVs with regard to risk of death."

Do you believe 4-Wheelers should be banned? What about prohibiting children under the age 16 from using them -- would this

be feasible?

ANSWER: I have always believed that the Commission has a special responsibility to protect children. One of the reasons I voted against the ATV consent decree is that it does not provide for a recall of adult-sized ATVs purchased for the use of children under 16. It also does not restrict the use of ATVs by children under 12. I continue to advocate, however, that children should not be allowed to ride adult sized ATVs.

ANSWERED BY COMMISSIONER DAWSON

COMMISSION STRUCTURE

SENATOR MIKULSKI: Although CPSC is authorized to have five Commissioners, the Appropriations Committees have restricted the number to three. You are currently functioning with just two Commissioners. How has that affected your operations?

ANSWER: The reduction of the number of Commissioners from five to three has not had a significant impact on the Commission's operations. It has been a much needed cost-saving measure while at the same time has probably expedited the decisionmaking process.

The current situation, however, with only two Commissioners serving while a statutory quorum requirement of three remains, means that there can be no Commission decisions during this period.

Petitions, rulemaking, subpoenas, Section 15 actions, and any major initiative or change in the day-to-day operations of the Commission must be deferred until the Commission again has a quorum.

The Commission staff can continue import surveillance activity, work out voluntary corrective action plans with manufacturers to remove unsafe goods from the market, and enforce our regulations during this period. In addition, staff continues work on voluntary standards activity, hazard assessment and research and provides the public with safety information.

QUORUM

SENATOR MIKULSKI: You are required to have a quorum of three Commissioners for any official Commission action. How are you functioning without a quorum? Has this presented major problems so far?

ANSWER: The day-to-day operations of the Commission have largely been unaffected by the lack of a quorum. Part of this is due to the fact that we disposed of many issues prior to the former Chairman's departure. The other factor is that the Commission has been without a quorum for a relatively short time.

If the absence of a quorum continues much longer, we might see a serious impact on the Commission's regulatory activities and a substantial backlog in the decisionmaking process. So far there have been no major problems.

MANAGEMENT PROBLEMS

SENATOR MIKULSKI: CPSC has had some serious management problems in the past several years. Do you think these problems have largely been solved?

ANSWER: Many of the Commission's management problems have disappeared. As long as Commission members are committed to the

collegial system, and the decisionmaking process is conducted by a fully-informed Commission acting in an open, fair and honest forum, I believe such management problems will not recur.

PROPOSED LANGUAGE

SENATOR MIKULSKI: Your budget request proposes language which would in effect reduce the role of Commissioners to advisors to the Chairman, is that correct?

ANSWER: Yes, that is correct.

SENATOR MIKULSKI: I understand that neither of you support the language. Why not?

ANSWER: I do not support the language for several reasons. First, I have consistently expressed my support for the Commission's collegial structure. As long as the Congress desires an independent agency to administer these laws, I believe a collegial body provides for needed accountability. What this provision appears to do is create a single-administrator Agency with the Commissioners serving as an advisory board. Such a measure would remove the accountability mechanism without providing for a replacement and makes nearly meaningless the role of the other Commissioners.

SENATOR MIKULSKI: Why is this language included in your budget request? Isn't this the bailiwick of the authorizing committee?

ANSWER: I am unsure why the language was added to the budget request. It would seem that such a provision affects statutory issues regarding the function and duties of the Commissioners.

SINGLE ADMINISTRATOR

SENATOR MIKULSKI: A 1987 GAO report concluded that CPSC would benefit from changing its structure to a single administrator and that this structure would save about $1 million a year. I have always found GAO to be very reliable. What was your response to this report?

ANSWER: During the time the GAO was researching its 1987 report, I was serving as Acting Chairman. I was interviewed by them at length and my rationale for supporting a continued collegial structure was accurately reflected therein. I still favor the collegial structure. I believe it provides for diversity of opinion and needed debate of important safety issues. Given the fact the Commission numbers three instead of five, the savings associated with changing to a single administrator at this stage would be $500,000, not $1 million.

SENATOR MIKULSKI: Given your tight budget, wouldn't the savings alone justify the single administrator structure?

ANSWER: As long as the administration of the laws for which we are presently responsible is to be done by an independent agency, then the costs associated with maintaining the Commission (comprising a small percentage of the total budget) are insignificant to ensure accountability of the decisionmaking process.

ADDITIONAL QUESTIONS SUBMITTED BY SENATOR MIKULSKI TO THE COMMISSION

Effectiveness of ATV Decrees

SENATOR MIKULSKI: About a year ago, the All-Terrain Vehicle consent decree was signed. A lot of people felt that the consent decree didn't go far enough. Can you tell me how effective the decree has been in preventing injuries associated with the use of ATVs?

ANSWER: The final consent decree became effective on April 28, 1988, less than a year ago. Acting Chairman Anne Graham opposed the ATV consent decree and so voted. We believe that it is too soon to determine how effective the decree has been in preventing ATV-related injuries. However, estimated ATV-related injuries have been decreasing since 1986, in part as a result of the Consumer Product Safety Commission's (CPSC) efforts. The following are estimates of ATV-related injuries treated in hospital emergency rooms nationwide between 1986 and 1988:

Year	Adjusted Annual Estimate
1986	86,400
1987	77,400
1988	62,800

This decline in injuries has been attributed, at least in part, to lower ATV sales and a complete shift to 4-Wheeled ATVs.

Partially as a result of Commission initiatives, including the consent decree, 3-Wheeled ATV-related injuries have dropped from 74,300 in 1985 to 29,800 in 1988, a 60 percent reduction. By 1992, 3-Wheeled ATV-related injuries are projected to decrease to 9,000, an 88 percent reduction from 1985.

ATV DEATHS

SENATOR MIKULSKI: How many deaths were there in 1988 associated with the use of ATVs and how does this compare with earlier years?

ANSWER: As of December 1988, the Commission had received reports of 161 ATV-related deaths that occurred in 1988. Because of the normal lag in receiving death reports, it may be at least early 1990 before we stop receiving reports of ATV-related deaths that occurred in 1988. Nonetheless, 1988 ATV deaths as of December 1988 appear to be at about the same level observed for 1987 deaths in December 1987, and for 1986 deaths in December 1986.

ATV ENFORCEMENT RESOURCES

SENATOR MIKULSKI: On page 13 of your justifications I see that you are reducing funding for State and local ATV monitoring by $116,000 and will restrict monitoring to targeted surveillance in critical areas. How much will you spend on ATV enforcement activities? Is this really going to be adequate to ensure that the 5,000 ATV dealerships will comply with the decree?

ANSWER: The 1990 budget request includes $262,700 for ATV

enforcement activities. Most of these funds represent salary and related costs necessary to coordinate the effort, and collect and analyze death and injury data and other information, as required by the final consent decrees. $50.00 is budgeted for State/local contracts to ensure that ATV dealerships will comply with the decrees. These funds may not be adequate to fully monitor compliance with the decree, and generally will only allow the Commission to respond to known problems.

The work of the States in FY 1989 consists of monitoring the great majority of the remedial provisions of the decree. Before the problem in Virginia became apparent, the Commission anticipated that monitoring in FY 1990 could be less intensive and could require fewer resources since it would be fairly routine.

CONSENT DECREE ENFORCEMENT

SENATOR MIKULSKI: What has the Agency's experience been to date in enforcing the consent decree with the manufacturers and dealers, particularly the Japanese manufacturers?

ANSWER: The ATV consent decree binds the five major distributors of ATVs in the United States. Four of the distributors, American Honda Motor Company, Inc., Yamaha Motor Corporation, U.S.A., U.S. Suzuki Motor Corporation and Kawasaki Motors Corporation, U.S.A. are American subsidiaries of Japanese corporations. Honda, Yamaha and Suzuki import ATVs from Japan, while Kawasaki and the fifth distributor, Polaris Industries, L.P., an American corporation, manufacture ATVs in the United States. Our answer refers to these entities, collectively, as "distributors."

The consent decree contains numerous provisions which require affirmative action on the part of the distributors and have the objective of reducing the risk of death and injury to riders of ATVs. Our experience in enforcing the most significant provisions of the consent decree is summarized as follows:

1. Stop Sale and Repurchase of Three-Wheeled ATVs

The consent decree requires that the distributors shall not sell 3-Wheeled ATVs, and shall offer to repurchase all new or previously unsold 3-Wheeled ATVs in dealer inventory.

- The ATV distributors have stopped sale of all 3-Wheeled ATVs.
- The distributors have notified each of their dealers that all new or previously unsold 3-Wheeled ATVs in inventory should be returned to the distributor.
- As a result of the repurchase program, approximately 14,000 3-Wheeled ATVs have been returned to distributors by ATV dealers. In addition, approximately 17,000 3-Wheeled ATVs in distributors' inventory at the time of the court's approval of the consent decree, have not been released for sale to the American public.
- The Commission has monitored the distributors' compliance with the stop sale and repurchase provisions of the consent decree through numerous inspections of ATV dealers, inspections of distributor's warehouses where inventory of 3-Wheeled ATVs are stored, and through the

review of periodic monitoring reports submitted by the distributors showing the progress of their respective repurchase programs.

- In those few instances in which the Commission learned that 3-Wheeled ATVs remained in a dealer's inventory, the dealer and distributor in question were contacted and asked to take immediate action to assure that the ATVs were not sold. We are aware of only one instance in which a dealer continued to refuse to cooperate in the repurchase program. The distributor has taken action to terminate that dealer's franchise.
- One positive outcome of the Commission's survey of ATV dealers in Virginia in December 1988, was the finding that none of the dealers had any new or previously unsold 3-Wheeled ATVs in inventory.

2. Age Recommendations for Operating ATVs

The consent decree requires that the distributors shall represent affirmatively that ATVs having an engine size of 70 cc up to and including 90 cc are to be used only by those aged 12 and older, and that ATVs having an engine size greater than 90 cc are to be used only by those aged 16 and older. The distributors are required to use their best efforts to accomplish this relief through their dealers.

- The staff is extremely concerned at this time with the ATV dealers' compliance with the age recommendations, and is continuing to work with the distributors on steps which will assure that these recommendations are adhered to.
- As required by the decree, the distributors have sent numerous communications to the dealers concerning the age recommendations. The age recommendations have been included on labels and hang tags affixed to each ATV, safety posters displayed in the dealerships, safety alerts handed to the consumer at the time of purchase, owner's manuals and in advertising material.
- Notwithstanding all of the steps already taken by the distributors to provide notice concerning the age recommendations, we have found as a result of dealer surveys in Virginia that a substantial percentage (approximately 70%) of dealerships surveyed are either not advising prospective purchasers of the age recommendations, or are communicating the age recommendations, but are discounting the warning and are encouraging the sale.
- In response to the staff's request, the distributors have sent mailgrams to all ATV dealers reminding them of the need to strictly follow the age recommendations and warning that termination of the dealer's franchise could result if the age recommendations are not followed. The distributors have also agreed to enhance contacts with dealers concerning the age recommendation requirement, which include measures such as regional and district sales manager meetings with dealers to emphasize the absolute necessity to adhere to the age recommendations.

- The staff is discussing with the distributors additional measures intended to gain the cooperation of the dealers with respect to the age recommendations. These measures include some form of post-sale communication between the distributor and the purchaser to assure that the age recommendations have, in fact, been conveyed to the purchaser.

One of the distributors has begun to implement a procedure whereby a pre-addressed, pre-stamped post card is attached to the front of each owner's manual, on the theory that it is logical that the purchaser will read at least part of the owner's manual before operating the ATV. The post card reiterates the age recommendation, and asks the purchaser to call the distributor at a toll free number if the age recommendations were not properly communicated to the purchaser by the dealer. We expect that the distributor will investigate each complaint and take action against dealers who have been found to misrepresent the age recommendations.

- The staff has also obtained assurances of the distributors that, to the extent permitted by State law, the distributors have the authority to terminate dealerships found to be in violation of decree provisions, such as the age recommendation provision.
- The staff has obtained assurances from the distributors that contracts between the distributors and dealers reflect the requirement that the deal . carry out the provisions of the consent decree. For the most part, existing contracts already contain language sufficiently broad to include this requirement. Two of the distributors are in the process of having their dealers execute new contracts which more clearly set forth the obligation of the dealer to carry out the provisions of the decree.
- Additional dealership monitoring to assure compliance with the age recommendations contained in the consent decree is planned for this fiscal year.

3. Notices and Warnings

a. Labels

a.(1) Supplemental Labels

The consent decree requires that supplemental labels, consisting of a general warning label and an age recommendation warning label, be tested pursuant to a testing plan provided for in the decree, and upon approval, sent to all past purchasers and dealers, together with written instructions as to where the labels should be placed on the ATV.

- In order to assure that all new labels could be reasonably understood, the labels were tested on a test group consisting of a representative sample of potential ATV users or buyers. The tests were conducted, and the labels were approved, by an expert in the field of labels.
- Supplemental labels consisting of a general warning

label and an age recommendation label, have been sent by the distributors to all past purchasers and to dealers together with written instructions as to where the labels should be placed on the ATV.

a.(2) Labels for New Model ATVs

The consent decree requires that 1990 model ATVs shall have affixed to them a general warning label, age recommendation warning label, passenger warning label, and tire pressure and overloading warning label, and that all of such labels shall be tested and approved by an expert in the field of labels.

- All of such labels have been approved by an expert in the field of labels and will be affixed to all ATVs produced for the 1990 model year.
- One of the objectives of the numerous dealer inspections planned for FY 1989 will be to assure that the labeling requirements of the consent decree are adhered to.

b. Owners' Manuals

b.(1) Manual Supplements

The consent decree requires that, within 45 days of the court's approval of the consent decree, the distributors shall provide manual supplements to all past purchasers, and to all dealers for distribution with every ATV in inventory until new owner's manuals required by the decree are approved by the Commission and available for distribution to dealers with new ATVs.

The distributors have sent manual supplements to all past purchasers and to dealers for distribution with every ATV in inventory. The text of the manual supplements, contained in Appendix F of the consent decree, consists of extensive warnings concerning the hazards associated with riding ATVs.

b.(2) Owner's Manuals for Future ATV Models

The consent decree requires that new owner's manuals shall be provided with every ATV manufactured 90 days or more after approval of the owner's manual by the Commission.

- New owner's manuals have been approved by the Commission and are being disseminated with new ATVs manufactured 90 days or more after the Commission's approval. The new owner's manuals contain extensive warnings concerning the hazards associated with riding ATVs, as contained in the consent decree.
- One of the objectives of the numerous dealer inspections planned for FY 1989 will be to assure that either supplemental or new manuals conforming to the requirements of the decree are being distributed to purchasers of ATVs.

c. Mandatory Point-of-Purchase Safety Materials

The consent decree requires that mandatory point-of-purchase materials in the form of hang tags, a safety video, ATV safety alerts, and safety posters be disseminated by the distributors to all dealers. The exact text of the safety alert and safety poster are contained in the consent decree. The hang tags and safety video script are subject to the review of the Commission to determine whether the material conforms to Guidelines for

Point-of-Purchase Safety Materials contained in Appendix I of the consent decree.

- o An ATV safety alert, the text of which is contained in the consent decree, is being provided to each purchaser of an ATV at the time of sale. The alert contains current information concerning the number of persons killed on ATVs and sets forth warnings on how to avoid injury.
- o The distributors have provided each dealer with a 4'x4' ATV safety poster for display in a prominent location in the dealership. The text of the safety poster is the same as that contained in the ATV safety alert.
- o Hang tags prepared by the distributors have been reviewed by the Commission staff and found to conform to the decree's Guidelines for Point-of-Purchase Safety Material. The hang tags have been sent to each dealer and are to be affixed to each ATV by the dealer. The hang tags contain the age recommendation for the vehicle, and the safety information appearing on the general warning label.
- o The script for the safety video has been reviewed by the Commission staff and found to conform to the decree's Guidelines for Point-of-Purchase Safety Material. The video has been produced and is being disseminated to all dealers for showing to prospective purchasers, and to various organizations specified in the consent decree as part of the decree's outreach program.
- o The Commission has conducted, and continues to conduct, numerous dealer inspections to determine whether the point-of-purchase material is being disseminated and utilized by the dealer as contemplated by the consent decree. In those instances where there have been problems with compliance, the dealer has been advised of the problem and has been asked to take corrective action.

4. Media and Marketing

a. Public Awareness Media Campaign

The consent decree requires that the distributor engage in a substantial public awareness media campaign that consists of print and television advertisments to be executed in accordance with the copy strategy set forth in Appendix L of the decree. The copy strategy describes factors to be included in the advertising copy in support of safe consumer use of ATVs, including age recommendations, helmet use, avoidance of riding with passengers, etc.

- o Print and television ads used by the distributors as part of the Public Awareness Media Campaign have been reviewed by the Commission staff and pre-tested by an agreed upon testing organization for the purpose of determining whether they effectively communicate the points set forth in the copy strategy.
- o The first stage of the media campaign, consisting of television and print advertisments, was carried out during October, November and December 1988, in

accordance with the media plan contained in Appendix N of the consent decree.

- o The cost of the distributors for network television time during the last quarter of 1988, exceeded the $3,600,000 specified in Appendix N. Cable television time was acquired at a cost of approximately $233,300.
- o Public Awareness Ads were shown on such network television programs as the World Series, NFL Football, NBA Basketball, College Football, Sunday Night Movie, Newhart, Hunter, Miami Vice and Kate & Allie.
- o Print ads have been run in various enthusiast, men's and farm magazines as specified in the decree. National magazines include Sports Illustrated, Field & Stream, Outdoor Life and Sports Afield.
- o Additional print advertisements will be run during March, April, and May 1989. The total cost of print ads, as required by the decree will be approximately $2,430,000.
- o The total cost of the Public Awareness Media Campaign, including national and regional television and print ads, will be approximately $7,966,000.

b. Outreach Program

The consent decree requires that the distributors undertake an outreach program to disseminate safety materials to consumer groups.

- o The distributors have mailed letters to the various organizations specified in the consent decree, including County Cooperative Extension Services, offering to provide to each, free of charge, up to 25 copies of the ATV safety video and up to 1,000 copies of brochures containing ATV safety information.

c. Commission Review of Promotional Ads

The consent decree requires that the distributors provide to the Commission, for review, a copy of all print, radio and television ads for review to determine whether such ads comply with the requirements of the decree. Such ads must be submitted to the Commission within 14 days of first use.

- o The distributors have submitted various print and television promotional ads to the Commission as required by the consent decree. Such ads have been reviewed by the staff to determine whether the required safety information is set forth in the manner described in the consent decree.

5. Training

The consent decree requires that the distributors undertake to offer to all interested persons a nationwide hands-on training program which will teach the basic skills of riding an ATV. Training is to be offered free of charge to all persons, and members of their immediate families, who purchase a new ATV after the Court's approval of the consent decree, and to all persons and members of their immediate families, who purchased a new ATV after December 30, 1986. The distributors are also required to provide training to all other interested persons and may charge such other persons a reasonable fee.

- o The distributors have fully staffed the training

program's administrative structure, as specified in the consent decree. The full-time personnel hired to administer the program include an education program director, instructor training director, rider training director, communications director, state programs specialist, curriculum specialist, instructor training manager, rider training manager, publication manager and six regional administrators.

- The Commission staff has reviewed and approved the training curriculum developed by the distributors for use in teaching the approximately six hours long training course.
- As of December 31, 1988, the distributors have recruited and trained 80 chief instructors and 1,244 instructors, and plan to train between 300 and 700 additional instructors during the next 12 months.
- The distributors have also hired 323 part-time area administrators who have the responsibility for communicating with dealers to obtain the names and addresses of potential students, so that those individuals can be contacted and scheduled for training. The area administrators also assist in scheduling of classes, and monitor classes through periodic on-site visits.
- State coordinators have been appointed in nine out of the ten states specified in the decree. The state coordinators will assist existing State programs by providing updated ATV safety information and maintaining contact with state personnel to provide input on use of state funds and coordination of state programs.

- Thus far, the distributors have established 489 training sites throughout the nation. Additional training sites will be added as demand for the training course grows.
- Each purchaser of a new ATV is being provided with information at the time of sale concerning the availability of the free training course for the purchaser and members of the purchaser's immediate family, including the offer of either $50.00 cash, a merchandise certificate in an amount no less than $50.00, or a U. S. Savings Bond valued at $100.00 upon maturity, for a purchaser or an immediate family member taking the course. Each purchaser is also contacted by an area administrator for the purpose of further motivating the purchaser and eligible family members to take training.
- The distributors spent much of the period between May and December 1988, creating and staffing the nationwide organizational structure, including the training and certification of instructors, and developing the curriculum to be used in teaching the course. The first significant number of persons taking the training course were taught in October 1988. There have been a total of 1,297 individuals trained under the training

program as of December 31, 1988. This number will increase substantially as the training course becomes fully operational during 1989.

- o During FY 1989, a significant part of the Commission's monitoring efforts will concentrate on determining whether the training program is being implemented as required by the consent decree. We will be looking at all aspects of the program, including the effectiveness of the distributor's marketing efforts in attempting to get people to take the course, the accessibility of training sites throughout the country, and the competence of instructors in teaching the course in accordance with the approved curriculum.

6. ATV Voluntary Standard

The consent decree contains the distributors' agreement to attempt in good faith to reach agreement on voluntary standards satisfactory to the Commission within four months of the Court's approval of the consent decree.

- o The Commission accepted the Voluntary Standard for All-Terrain Vehicles on January 13, 1989. The Standard was developed by the distributors with the assistance of members of the Commission staff, and contains provisions dealing with equipment and configuration requirements, youth vehicle requirements, service brake performance, parking brake performance, and pitch stability. The industry has also agreed to engage in an 18-month effort to develop a dynamic performance standard to address the lateral stability characteristics of ATVs.

7. Repository of Documents

The consent decree requires that any reports or other material required to be submitted to the CPSC pursuant to the decree shall, after CPSC review and completion by the parties of any necessary final action on the matters to which the report or other material relates, be publicly available in the CPSC Public Reading Room, with copies in the CPSC regional centers, to the extent permitted by the trade secret and confidentiality provisions of Section 6(a) of the Consumer Product Safety Act (CPSA).

- o Copies of all reports or other material which are required by the decree to be submitted to the CPSC, and which are not exempt from disclosure, are publicly available in the CPSC's Public Reading Room in Bethesda, Maryland, and in each of the three CPSC regional centers.

OTHER ATV MANUFACTURERS

SENATOR MIKULSKI: Are there any manufacturers or dealers of ATVs who are not covered by the consent decrees? If so, how many ATVs for use by children are they producing and what is being done to bring these firms into compliance with the consent decrees?

ANSWER: In April 1988, eighteen possible manufacturers of ATVs were contacted by telephone to inform them of the ATV

voluntary standard meeting to be held May 4, 1988, under the final consent decrees, and to determine if the companies manufactured ATVs. Of these companies, ten were identified as possibly manufacturing ATVs. Registered letters were sent to them in August 1988.

Out of the ten firms, only one of those reporting stated that it was still manufacturing ATVs. This company reported that it produced 3-Wheeled ATVs from September 1982 until early in 1987. It began production of 4-Wheeled ATVs in December 1985, and currently has limited production (approximately 100-110 estimated for the year). The vehicles were marketed and purchased more for utility use with top speeds of about 30 mph. The company stated that it plans to discontinue production due to a diminishing market. A recent telephone conversation with this firm indicates that it has no inventory of 3-Wheeled ATVs, and that when its present inventory of 25 4-Wheeled ATVs is sold, it will discontinue its ATV business.

On the basis of this information, the staff plans no consent decree activities with respect to other manufacturers of ATVs.

ATV AGE REQUIREMENTS

SENATOR MIKULSKI: A key aspect of the consent decree requires manufacturers to use their best efforts to ensure that dealers not attempt to sell large, adult-size ATVs to young children. Do you have information on dealer compliance with the age requirements? How has the Agency responded to non-compliance?

ANSWER: As part of the program to monitor enforcement of the consent decree, the Commission completed a survey of ATV dealers in Virginia in December 1988. The Commission survey consisted of a statistical sampling of each of the five distributor's dealers in the State. At each dealership surveyed, an undercover Commission investigator asked a salesman the question, "I am thinking about buying an ATV for my 10-year old son. What model do you recommend." (In the case of Polaris dealers, the question pertained to the "customer's" 15-year old son since Polaris recommends that its ATVs be used only by those at least 18 years of age.) The responses were collated by the Commission technical staff in aggregate totals for all distributors combined, and in totals reflecting only the responses of dealers for individual distributors. The four categories of responses and the aggregate totals were:
The salesman:

Warned the customer that, according to the Government, ATVs are not recommended for use by children under age 12 (Age 18 for Polaris).

27 Percent

Warned the customer, but discounted the warning and encouraged the sale.

42 Percent

Tried to sell the ATV without explaining age recommendations.

23 Percent

Out of business.

8 Percent

Based on these responses, and eliminating the number of

dealers selected for the survey who were out of business, approximately 70 percent of the dealers actually surveyed either tried to sell the ATV without explaining the age recommendations or warned the customer, but discounted the warning and encouraged the sale.

In response to the Commission staff's request, the distributors sent mailgrams to all ATV dealers urging them to strictly follow the age recommendations and warning that termination of the dealer's franchise could result if the the age recommendations are not followed. The distributors have also agreed to enhanced contacts with dealers concerning the age recommendation requirement, including measures such as regional and district sales manager meetings with dealers to emphasize the absolute necessity of adhering to the age recommendations.

The dealers are not parties to the consent decree. Consequently, the only way to encourage dealers to adhere to the terms of the consent decree is by requiring the distributors to use "best efforts" to make the dealers comply. In discussing additional measures that can be taken to increase dealer compliance, the staff has advised the distributors of its belief that both a clear business incentive for the dealers to comply with the terms of the decree and a reasonable system of checks on the dealers representations to the consumer must be implemented by the distributors.

The staff believes, and has so informed the distributors, that termination of dealer franchises for non-compliance with the important provisions of the consent decree, such as the age recommendations is, in its view, encompassed by the "the best efforts" clause.

Toward this end, the staff has obtained the written assurances of the distributors that, to the extent permitted by State law, they have the power to terminate dealership franchises if the dealership is found to be in violation of decree provisions, such as the age recommendations. The staff has further reviewed the distributor/dealer contracts and has obtained assurances from the distributors that these contracts reflect the requirement that the dealers carry out the provisions of the consent decree. For the most part, existing contracts already contain language sufficiently broad to include this requirement. Two of the distributors are in the process of having their dealers execute new contracts which more clearly set forth the obligation of the dealer to carry out the provisions of the decree.

The staff has also advised the distributors that it believes that a post-sale communication from the distributor directly to the consumer is a reasonable way of ensuring that the dealer has, in fact, correctly represented the age recommendations to the purchaser. One of the distributors has begun to implement a procedure where a pre-address, pre-stamped post card is attached to the front of each owner's manual, on the theory that it is logical that the purchaser will read at least part of the owner's manual before operating the ATV. The post card reiterates the age recommendation, and asks the purchaser to call the distributor at a toll free number if the age recommendations were not properly communicated to the purchaser by the dealer. The distributor will report to the Commission all complaints received

and is expected to investigate each complaint and take action against dealers who have been found to misrepresent the age recommendations.

Other distributors have not agreed to implement the type of post-sale mechanism which the staff believes will be effective in assuring that the dealer has properly represented the age recommendations. If, through its continuing monitoring efforts, the staff finds that the measures that have been implemented thus far have not resulted in greater dealer compliance, the Commission will have to consider whether judicial action is warranted.

Additional dealership monitoring to assure compliance with the age recommendations contained in the consent decree is planned for this fiscal year.

ELIMINATION OF HAZARD CONTRACTS

SENATOR MIKULSKI: You are not requesting any funds for hazard contracts. These funds are used to employ experts to help understand product safety problems and how they might be corrected -- something that is vital to your mission.

Why are you proposing to completely zero out hazard contracts?

ANSWER: The January budget request is $3.0 million less than the one proposed by the Commission last September. In order to accommodate the significantly lower support level, many projects in all program areas were reduced or eliminated. Hazard contract support funds ($1.2 million) were eliminated because the hazard projects they support can be continued without any contracts, keeping the effort viable. In some cases work will slow down; in a few others, CPSC staff can perform portions of the work which would otherwise be done by contractors. If at any time during FY 1990, or in some future year, funds become available, we can dedicate them to the hazard studies without having seriously impaired or terminated development of the safety standards involved. The alternative to reducing contract funds and further reductions in Commission staffing levels would leave the Agency with an unreasonably small staff to address the broad range of potential hazards posed by consumer products.

IN-HOUSE WORK

SENATOR MIKULSKI: Will the activities performed with the hazard contract dollars now be performed in-house? Do you have the in-house capability to perform this work in some of the highly technical product safety areas?

ANSWER: Very few of the activities which were planned as contact expenditures can be performed in-house. In some cases, this is because we lack the number of in-house staff, or staff with the appropriate expertise, to address certain aspects of the projects conducted each year. Examples include conducting large-scale panel studies of consumer acceptance of child-resistant cigarette lighters; evaluating the relationship of swimming pool configurations to diving injuries in the pools; refining the field test method for riding mower stability; and

developing and testing prototypes of new child-resistant packaging designs. It would be inefficient for CPSC to maintain an in-house capability to perform these analyses. Our hazard projects change each year, and complicated studies require particular equipment, technology, and expertise which we would not need once the project is completed.

While most hazard studies are technical in nature, in other cases the contracts purchase supplies or services which by nature must be obtained from outside the Commission. Examples include limited purchases of product samples for in-house study (ATVs, riding mowers) and the purchase of injury data which has already been collected by outside organizations.

CONTRACT SAFEGUARDS

SENATOR MIKULSKI: You are spending over $1 million in FY 1989 on hazard contracts. Do any of your contractors have contracts with manufacturers of products under CPSC investigation? What safeguards have you implemented to assure that there are no conflicts of interest between the Agency and its contractors?

ANSWER: All hazard contracts issued by the Commission contain two Federal Acquisition Regulation clauses which address the conflict of interest issue. These clauses require the contractor to certify prior to contract award that no actual or potential conflict of interest exists between the CPSC contract and any other activities of the contractor organization. Furthermore, it states that if a conflict of interest is discovered after award, immediate and full disclosure must be made to the Contracting Officer. The Government reserves the right to terminate for convenience any contract in which a conflict of interest situation arises after award and is properly disclosed by the contractor, and to terminate for default any contract in which the contractor fails to adequately disclose a conflict of interest. These provisions safeguard the Agency against contractor conflict of interest.

DRASTIC REDUCTION IN NEISS

SENATOR MIKULSKI: Your primary tool for collecting information on product-related deaths is the National Electronic Injury Information System, a computerized system providing CPSC with reports from hospital emergency rooms. The System began in 1973 and collected data from 130 hospitals at that time. In FY 1989 the NEISS collected data from only 66 hospitals. Why was this drastic reduction made?

ANSWER: During 1989, the NEISS will increase from a 62 hospital sample at the beginning of the year to a 66 hospital sample at the end of the year. This sample size represents a significant reduction from the originally designed sample size of 130 hospitals. The Commission never implemented the 130 hospital sample because of resource limitations. A sample of 74 hospitals was used from 1979 through 1984, when resource cuts reduced the sample to the current number.

STATISTICAL VALIDITY OF NEISS

SENATOR MIKULSKI: Didn't it significantly decrease the statistical validity of the data?

ANSWER: Each reduction in the NEISS sample has been carefully designed to maintain the basic statistical properties of the system i.e., the system still produces valid national estimates. However, the reduced sample size has limited the utility of the data in several ways:

1. The variances of the estimates have increased by about 40 percent.
2. The number of reported cases has declined by 50 percent, which has substantially weakened the use of NEISS as a case-finding tool.
3. It now takes twice as long to collect the necessary cases involving a product under investigation to perform certain special follow-up studies of how these hazardous products cause or contribute to injuries. This can have the effect of delaying hazard projects when these studies are needed to carry them out to completion.
4. Certain States have lost their only NEISS hospital, and coverage of virtually all areas of the country has been weakened.

LIMITING NEISS TO HOSPITAL EMERGENCY ROOMS

SENATOR MIKULSKI: Under this system, CPSC collects data only from hospital emergency rooms. Why do you limit data to this one source? (i.e., why not emergency care centers?)

ANSWER: The Commission has conducted pilot studies and tested the feasibility of collecting product-related injury data from both emergency care centers and private physicians' offices. Both sources would provide additional useful data, but development of a statistically valid system of these data sources would require a substantial resource investment.

The emergency room system is the most cost-effective method for collection of these data for two major reasons:

1. Hospital emergency rooms are still the major source of care for product-related injuries. In the physicians' offices and emergency care centers we studied, a much smaller percentage of the cases treated were for product-related injuries than is the case in the NEISS hospitals.
2. Any new system would require a substantial investment for development. These developmental costs have already been paid for NEISS.

Proposals to enhance our data systems by covering emergency care centers, environmental health clinics, and poision control centers will be considered for future support.

NEISS EXPANSION

SENATOR MIKULSKI: On page 22 of your justification you state that an in-house review group recommended adding 27

hospitals. Why haven't you followed this recommendation? When will you be able to add these hospitals?

ANSWER: Funds to expand the number of NEISS hospitals were included in the FY 1990 budget request to OMB. In light of the lower budget level included in the 1990 mark, this improvement was eliminated along with several other data collection improvements recommended in that study. Improvements in our data systems were considered less important than maintaining on-going data activities. The Commission will consider the NEISS expansion proposal for future funding at the next appropriate opportunity.

RESOURCES FOR NEISS EXPANSION

SENATOR MIKULSKI: Did your original request to OMB include funding to include these additional 27 hospitals in the NEISS?

ANSWER: The Commission's September budget request to OMB included $154,000 and one FTE to support the NEISS expansion.

POISONING DATA

SENATOR MIKULSKI: The Commission is responsible for collecting poisonous and hazardous data under new acts such as the Poison Prevention Packaging and Federal Hazardous Substances Acts. However, you do not routinely collect any poisoning data at this time and have no means to identify cases of chronic chemical illness caused by exposure to hazardous consumer products. Why don't you gather this data which is essential to carry out the Commission's legislative mandates?

ANSWER: The NEISS system routinely collects data on ingestions and poisonings treated in hospital emergency rooms. NEISS also collects data on other acute injuries associated with exposure to hazardous consumer products. A subset of NEISS, the Children and Poisonings (CAP) data base, collects data associated only with accidental ingestions by children under the age of five. These data specifically support the Poison Prevention Packaging Act efforts, but are limited by the small number of poison centers in the NEISS system.

Until 1983, the ommission routinely collected poisoning and ingestion data from the Food and Drug Administration (FDA) National Clearinghouse for Poison Control Centers at no cost. The Clearinghouse provided brand name specific ingestion data, which enabled the Commission to monitor and take action on consumer products involved in injury incidents. The Clearinghouse was terminated in 1983, at which time the American Association of Posion Control Centers (AAPCC) began collecting these data. The Commission has purchased the AAPCC data for the year 1984 through 1987 at an annual cost of $30,000/$40,000. There are no funds in the 1990 budget to continue this, however.

The AAPCC data are adequate for monitoring poisonings by broad product category but, because these data are not brand name specific, they have not allowed for ongoing follow-up of products involved in the incidents. Funds to expand NEISS to collect adequate ingestion data were eliminated from the Commission's proposed 1990 budget.

Cases of chronic illness are difficult to diagnose as being

caused by exposure to consumer products and, thus, are not likely to be captured through the Commission's existing data sources. To identify cases of chronic illness caused by exposure to hazardous products, the Commission, in its proposed FY 1990 budget, requested resources to collect data from environmental health clinics. These data would allow the Commission to associate chemically-induced injuries with consumer products and identify trends that may warrant Commission action. Resources for this effort were also eliminated from the 1990 request.

PENDING RULEMAKINGS

SENATOR MIKULSKI: CPSC currently has three pending rulemakings, other than ATVs. The Small Parts rulemaking is examining whether to amend the small parts test for children's toys and products. Between 1973 and 1983 there were 195 choking incidents, including 37 deaths, on toys that pass the current standard.

The Cigarette Lighter rulemaking is examining whether to require that cigarette lighters be child-resistant. In 1986, 210 consumers died as a result of cigarette lighter fires, 170 of which are attributed to fires started by children playing with lighters.

The Poison Prevention Packaging rulemaking concerns whether to amend the current tests which determine whether a product's packaging is child-resistant. When was this rulemaking begun?

For each of these rulemakings, can you tell me:

- When was this rulemaking begun?
- At what stage in the rulemaking process are you at right now?
- When do you anticipate completion?
- Is the completion of rulemaking hindered by budget limitations?
- If the rulemaking effort was fully funded, how long would this rulemaking have taken?

ANSWER: a. Small Parts Test

An Advance Notice of Proposed Rulemaking (ANPR) was published in the Federal Register on June 7, 1988, with a 60-day comment period ending August 8, 1988. The injury data collection for the Choking Hazard project was initiated on October 1, 1987.

The injury data collection for this project was completed December 31, 1988, and the report of the data analysis is being prepared now. The Charter for a Medical Advisory Committee was approved and a Federal Register notice was published on January 19, 1989. The primary purpose of the Medical Advisory Committee is to provide the Commission with expert medical advice needed to determine if the existing regulation is adequate to protect children under 3-years of age from asphyxiation hazards due to foreign body blockage in the throat, and to provide criteria for appropriate test fixtures for determining if a toy or childrens' article could present an asphyxiation hazard. Current plans call for one meeting of the Medical Advisory Committee in FY 1989 and two in FY 1990.

It is anticipated that the staff will develop its options and recommendations for Commission consideration during FY 1990.

The Commission's decision will be implemented in FY 1991.

There would be no change to the amount of time required to complete the project, since this rulemaking effort is essentially fully funded in our budget request. However, it assumes that funds are made available to support the Medical Advisory Committee meetings in FY 1990.

b. Child Resistant Cigarette Lighters

The ANPR initiating the development of a child-resistant lighter regulation was published in the Federal Register in March 1988. To make lighters child-resistant may require modification of existing lighters. This will require a test protocol to determine that lighter modifications are more child-resistant than lighters now on the market. A draft test protocol, using panels of children and adults, has been developed. This draft test protocol and suggested modifications are currently under pilot test. On completion of the pilot test, lighters now on the market will be tested to establish their level of child-resistance and prototype modified lighters will be tested so that acceptance criteria for a regulation can be established. A notice of proposed rulemaking is planned for Commission consideration in FY 1991, and a final regulation in late FY 1992.

ASTM's Task Group F15.02 is working toward a voluntary child-resistant lighter standard. The regulation now under development is expected to be an integral part of this voluntary standard. Any child-resistant standard developed by the Task Group will be considered as a possible substitute for a mandatory regulation.

The 1990 budget mark resulted in the elimination of $250,000 in contract funds allocated to the project. The funds would have supported an exposure survey on lighters and matches, an evaluation of prototype child-resistant lighter designs, and panel studies on consumer acceptance of child-resistant lighters. Not receiving these funds will delay promulgation of a final regulation from 1991 to late 1992, a delay of about one year.

c. Child-Resistant Packaging

The ANPR to amend the requirements for child-resistant packaging under the Poison Prevention Packaging Act was published in January 1983. The ANPR solicited suggestions for improving the effectiveness of child-resistant packaging in preventing accidental ingestions by young children, and requested comments on suggested revisions to the protocol for testing the effectiveness of the special packaging. In 1986, the Commission completed analysis of the results of tests conducted to verify that the test protocol could be changed without compromising the safety of young children. In August 1987, the Commission voted to propose specific revisions to the test protocol.

The staff is currently preparing a briefing package and draft Federal Register notice to support a proposal of the proposed revisions, which the Commission will consider in the third quarter of FY 1989.

We anticipate a final rule in FY 1990. There would be no change to the amount of time required to complete the project, since it is essentially fully funded.

CIGARETTE SAFETY STUDY RECOMMENDATIONS

SENATOR MIKULSKI: In December 1987, CPSC provided the Committee with a copy of the cigarette safety study, which cost $2.4 million. In last year's Senate hearing record you indicated that the Agency had no plan to pursue the recommendations of the report. Why was the $2.4 million study pursued if there is no intention to implement the recommendations?

ANSWER: The cigarette safety study was mandated by the Cigarette Safety Act of 1984, which created, not as part of CPSC, a Technical Study Group and an Interagency Committee to determine the technical and commercial feasibility of producing cigarettes with reduced ignition propensity. The task was concluded with a recommendation of the Interagency Committee, chaired by the Chairman of the Consumer Product Safety Commission, that Congress authorize a two-year study to determine consumer acceptance and possible health effects of prototype cigarettes which are less fire prone. The Cigarette Safety Act of 1984 provided no authority or appropriations to implement the recommendations. Furthermore, the Consumer Product Safety Act specifically exempts tobacco products from the jurisdiction of this Agency. Additional legislation would be required if the recommendations generated by the cigarette safety study were to be implemented.

TREASURY DEPARTMENT INVOLVEMENT

SENATOR MIKULSKI: The Treasury Department has jurisdiction over tobacco products. Have you shared the cigarette safety study with Treasury and if so do they plan to pursue the recommendations?

ANSWER: No, we have not shared the study with the Treasury Department. The Bureau of Alcohol, Tobacco and Firearms of the Treasury Department is responsible for administering Chapter 51 of the Internal Revenue Code, 26 USC, with respect to manufacturing, export, import, etc., of tobacco products, including cigarettes, as those activities relate to taxes. They have no responsibility or authority in matters relating to health and safety, including fire safety, aspects of tobacco products, and generally defer to other Federal agencies in this regard.

The following Federal agencies were active participants in the cigarette safety study, in addition to the Consumer Product Safety Commission: Center for Fire Research of the National Institute for Standards and Technology, the National Cancer Institute, the Federal Emergency Management Agency, and the Federal Trade Commission.

LEAD-BASED PAINT

SENATOR MIKULSKI: Page 38 of your justification indicates that the Agency plans to continue to address the hazard of lead exposures associated with consumer products. This Subcommittee directed HUD to develop guidelines for lead-paint abatement. Your justifications indicate that HUD will advise the Agency as to whether the current CPSC lead-in-paint standard is sufficiently protective.

I hope you're involved in HUD's efforts, particularly since the Commission banned lead paint in the first place, back in the '70's. Is there someone at the Commission who is working with HUD on developing the standard?

ANSWER: In FY 1990 the Commission will complete a thorough review of recent scientific studies on the hazard presented by low level lead exposure. This in-house scientific review will form the basis for advising the CPSC Commissioners about whether or not the current standard is sufficiently protective. We will continue to coordinate our assessment with HUD, the Environmental Protection Agency, and with agencies within the Department of Health and Human Services.

AGREEMENT WITH HUD

SENATOR MIKULSKI: What kind of an agreement, if any, do you have with HUD?

ANSWER: The interaction with HUD on lead-based paint and on lead-paint abatement is coordinated by the Program Manager for the Chemical Hazards Program. This coordination is informal and occurs principally between our Program Manager and the HUD Program Manager in their Office for Policy Development and Research. No formal agreement governs this coordination.

LEAD EXPOSURE RESPONSIBILITIES

SENATOR MIKULSKI: Do you believe you are doing all you can on this matter in order to fulfill your regulatory and statutory responsibilities for ensuring safety for lead exposures in consumer products?

ANSWER: The Commission is addressing all of the issues on lead exposures in consumer products which we have currently identified. These include lead in paint, addressed above; lead in solders; water coolers with lead-lined tanks; and lead paint removal products and procedures. Our current activities include the following:

- o Preventing toys decorated with lead-based paint from entering the country through intensive Import Surveillance efforts.
- o Implementing the Lead Contamination Control Act of 1988 by requiring manufacturers and importers of water coolers with lead-lined tanks to repair, replace, or recall and refund the purchase price of the coolers.
- o Issuing a consumer alert warning about the hazards of "do-it-yourself" removal of lead-based paint.
- o Initiating a voluntary standard activity to incorporate warnings on hazards associated with lead paint removal into instruction booklets.

1989 INDOOR AIR QUALITY ACTIVITIES

SENATOR MIKULSKI: The FY 1989 bill provided $400,000 for indoor air research studies, and recommended that these funds be used to complete prior research on biological aerosols and to initiate a study relative to kerosene heaters.

Please detail how the $400,000 add-on is being used in FY 1989, describing the studies underway with a breakdown of costs.

ANSWER: The $400,000 allocated to CPSC for indoor air quality (IAQ) research is being spent on a number of IAQ issues. These include completing research started in 1986 on humidifiers, completing research on emissions from kerosene heaters, investigating the health effects associated with nitrogen dioxide emitted from unvented combusing appliances, initiating a pilot study on emissions from carpeting, and developing guidance documents for consumers on identifying and reducing exposure to biological pollutants in the home, and on asbestos maintenance and abatement in the home.

The specific breakdown of the estimated costs associated with these efforts are listed below. This breakdown may vary slightly as actual costs are incurred during the year.

Combustion Sources $155,000
(Kerosene and unvented gas space heaters)

- Purchase equipment to provide capacity to conduct testing in CPSC laboratory ($125,000)
- Study of nitrogen dioxide health effects (partial funding for joint study with industry) ($20,000)
- Printing and graphics for pamphlet on safe use of unvented appliances ($10,000)

Biological Pollutants..... $147,000

- Research on humidifiers ($75,000)
- Market study on humidifiers ($7,000)
- Development of guidelines for consumers to identify "homes-at-risk" and ways to reduce exposure to biological pollutants in homes ($65,000)

Asbestos in Homes..... $65,000

- Develop state-of the art guidance for consumers on asbestos product maintenance and abatement

Carpeting..... $33,000

- Market study to identify substances in carpets and adhesives ($20,000)
- Conduct investigations of complaints of illness from carpeting ($3,000)
- Purchase equipment to provide for in-house testing of chemicals emitted from carpets ($10,000)

INDOOR AIR QUALITY BOOKLET EXPENDITURES

SENATOR MIKULSKI: How much did you spend on the indoor air quality book you produced in conjunction with EPA and what percentage of the resources devoted to the project came from CPSC?

ANSWER: The percentage of staff resources expended by the Commission versus EPA staff resources are difficult to estimate. EPA staff bore the major burden of producing and editing the text, while Commission staff served as technical advisors. EPA paid for the graphics development of the booklet, and each Agency paid for their own printing costs. The Commission spent approximately 25 percent of what EPA spent on printing, amounting to $8,000 for 23,000 copies. In 1989, the Commission submitted a second printing order in conjunction with EPA for an additional $8,000, and has received another 26,000 copies.

DISTRIBUTION OF INDOOR AIR QUALITY BOOKLET

SENATOR MIKULSKI: Is this booklet being distributed by the Consumer Information Center? Do you have any statistics on how popular it has been?

ANSWER: The joint EPA/CPSC Indoor Air Quality Booklet is available from the Consumer Information Center (CIC). CIC reviewed the booklet as it was being developed. CPSC provided the Center with 2,500 copies from the original printing in 1988. The booklet will appear in the CIC catalog for the first time this spring.

We do not yet have any statistics on the booklet's popularity from CIC, but would expect that demand would increase once the spring catalog is issued.

SELECTION OF ENFORCEMENT AREAS

SENATOR MIKULSKI: Pages 43 and 44 of your budget list the more significant regulated product enforcement projects to be undertaken in FY 1990. These include regulation enforcement of toys, children's sleepwear, fireworks and lawn darts. What are CPSC's criteria for selecting these products/areas for priority enforcement?

ANSWER: Commission staff developed a comprehensive plan for systematically assessing industry compliance with the numerous regulations and/or standards for which the Agency is responsible. The core of the plan is a model for prioritizing Agency regulations and/or standards based upon hazard, industry, and compliance factors. The factors include the estimated number of deaths and injuries, effectiveness of the regulation, estimated annual production, estimated number of products in use, industry stability, estimated level of industry non-compliance, and significance of the violations generally found.

Based upon current information, the small parts toy regulation is the first priority under the regulated product comprehensive plan. The Commission is currently assessing over-all industry compliance with the small parts regulation and anticipates the need for extensive resources in FY 1990 to address the specific problems identified during the FY 1989 effort. Children's sleepwear is number six on the regulated product priority list and is one of six products scheduled for a compliance assessment in FY 1990.

Fireworks and lawn darts continue to be a priority regulated product activity in FY 1990 to assure activities initiated in FY 1988 and continued in FY 1989 result in a high level of industry compliance.

VOLUNTARY STANDARD CONFORMANCE

SENATOR MIKULSKI: Page 45 of the budget indicates that you plan to provide one FTE and $54,000 for monitoring conformance with two specific voluntary standards. One is on crib and playpen toys with strings, crib gyms, squeeze toys, and rattles; the other affects crib hardware and structural integrity. Why do you plan to devote so few resources to this responsibility? How and why were the two specific projects selected?

ANSWER: We can monitor industry conformance with these two voluntary standards with just one FTE because we will combine our monitoring of the voluntary standards with our compliance programs already planned for enforcing the mandatory requirements for toys and cribs. It requires little additional effort to screen toys and cribs for the voluntary standard provision at the same time we are in the marketplace examining these same items for compliance with the mandatory requirements.

The toy and crib voluntary standard requirements were selected for monitoring because they are recent industry initiatives and address serious risks of injury to children which are of concern to the Commission. The Commission monitors industry conformance to voluntary standards to determine if the level of industry conformance is substantial. If it is not, the Commission may consider pursuing a mandatory standard.

In general, only those voluntary standard projects which entail a significant Commission effort are separately budgeted in the voluntary Standards Conformance subprogram. In particular, these projects involve more Field office staff time. Many other standards which require only a small amount of headquarters staff time are informally monitored through contacts with voluntary standards organizations, public and private organizations with an interest in the area, consumer complaints, and the like. In fact, a conformance monitoring plan is formally included along with each voluntary standard proposal forwarded for Commission action. When we learn of real or potential conformance problems, more effort is dedicated to determining the facts of the case and posing remedial measures, if necessary.

FIELD STRUCTURE

SENATOR MIKULSKI: Last year you reported that the field structure was being reorganized. The five regional offices will be reduced to three and the 31 resident posts will be reduced to 30. Although the 1985 management review task force recommended reducing the total number of resident posts to 20, you have decided to reduce them to 30. Why did you decide not to follow the recommendations of the management review?

ANSWER: In general, we are following most of the major recommendations of the management review task force. In the time since the group reviewed the situation, we have had more experience with the reorganized structure and believe that 30 resident posts would give us better nationwide coverage. We feel the structure must include sufficient flexibility to enable us to adjust our Field presence to changing workload priorities. In order to provide CPSC with increased flexibility, minimize the need for additional travel expenditures, enhance our ability to address local consumer safety issues, and further State and local government participation in our programs, we have thus authorized 30 resident posts across the nation. Five of these local offices are designated as single-person posts.

COMPLETION OF FIELD REORGANIZATION

SENATOR MIKULSKI: When will the Field reorganization be

complete, particularly the staffing of the new and expanded resident posts?

ANSWER: Our Field reorganization is almost complete. Over the past two fiscal years we accomplished the following:

- o Regional offices have been reduced from 5 to 3;
- o Deputy regional director positions have been eliminated;
- o Public affairs specialists have been increased from 5 to 13;
- o Of 15 offices to be expanded, all but three have been expanded and these remain one-person offices;
- o All five of the authorized one-person offices are operational;
  - -- Of these five, one was a new office recently opened in San Diego;
- o Of seven one-person offices to be closed, three have been;
- o Aggressive recruiting has been underway throughout 1988 to fill Field vacancies; only five remain and will be filled in 1989.

We have delayed closing the final four one-person offices since we lack sufficient permanent change of station funds to move employees to new assignments. This necessitates carrying excess personnel at other sites. We hope that this can be completed within the next 1-2 years.

SENATOR MIKULSKI: How much has been spent on this effort?

ANSWER: To date CPSC has obligated $222,226 to move Field personnel from office to office. Each move is very expensive, averaging about $35,000. Because of our limited resources, permanent change of station moves are dependent on the availability of funds.

SINGLE-PERSON RESIDENT POSTS

SENATOR MIKULSKI: As to the resident posts, the House Subcommittee has recommended in the past that no resident posts be staffed by only one person. Last year you reported that there were 15 single-person resident posts. Your goal is to reduce that number to five. Have you accomplished that goal?

ANSWER: There are now only nine resident posts with one employee. The approved reorganization plan authorizes five single-person offices targeted for Charleston, Trenton, Honolulu, Phoenix, and San Diego. These are currently operational; the other four one-person offices are eventually to be closed. We have delayed closing them until the incumbent leaves or until there are funds available to relocate employees to their new assignments in order to avoid reductions-in-force.

CLEARINGHOUSE EFFICIENCY

SENATOR MIKULSKI: CPSC operates a Clearinghouse which responds to Freedom of Information Act requests for injury data as well as requests from the staff. In FY 1989 your budget for the Clearinghouse was 11.5 percent more than FY 1988, to purchase

personal computers and word processing equipment in order to improve efficiency. Your program statistics do not reflect any increased program efficiency. In fact, you anticipate filling fewer requests in FY 1990. Why is this?

ANSWER: The 11.5 percent increase in the 1989 Clearinghouse budget includes increases such as pay raises, overhead, and the like. The Clearinghouse is using one personal computer to run and monitor its various data files, i.e., data requests, accident investigation reports and consumer complaints/reported incidents. Laser quality letters and gum labels are printed for our bi-weekly mailings, thus reducing by approximately 50 percent clerical time spent in preparing these documents for mailing to manufacturers. In general, we believe Clearinghouse operations will be more efficient this year.

Our ability to process Clearinghouse data requests remains approximately the same even though these appears to be a slight (1.9%) decrease in requests processed. The number of requests to be processed in 1989 is simply an estimate based upon previous year's experience. This number is, however, still a prediction, and the 1989 number of processed requests could be greater or less. Should the number of request be higher than projected, we feel confident that improvements instituted this year will permit us to process more requests than the 6,050 shown in the budget.

DROP IN CLEARINGHOUSE REQUESTS

SENATOR MIKULSKI: Last year's justifications indicated that you would receive 6,400 requests in 1988 and 1989. However, this year's justifications show that 6,000 requests were received in 1988 and you plan to receive 6,000 in 1989 and 1990. Why has the number of requests dropped off by over 6 percent?

ANSWER: The figure of 6,400 requests indicated in last year's justifications was an estimate based on previous year's experience. A review of the past three years of data requests, however, shows that the Clearinghouse has received slightly more than 6,000 requests per year over this period. Based on this information, we have revised our estimate. This number is, however, still a prediction, and the 1989 number of requests could be greater or less depending on a number of variables (media coverage, new products, etc.) over which we have no control.

NEW PROJECT IDENTIFICATION/PETITIONS

SENATOR MIKULSKI: You are spending $448,000 and 7 staff years in the current fiscal year to identify potential hazards with new products or new uses for existing products, and to identify other previously unrecognized or unaddressed safety problems. This is a 46 percent increase over 1988 and an increase of two staff years, yet your output appears to be relatively stable. How do you explain?

ANSWER: It is difficult to predict the amount of resources which will be spent on the New Project Identification (NPI) effort from year to year, because we do not know in advance the number, severity, and complexity of the new hazards which we will

discover. The latter two factors affect the average amount of staff time necessary to address new projects in any given year. Fewer staff resources were used for the NPI effort in 1988 than anticipated even though the numerical results were similar to those projected. In 1987, however, the NPI outputs and the resources used were much closer to the figures we have projected for 1989. We feel these estimates to be reasonable ones, particularly since in 1988 and 1989, the NPI effort will focus on making greater use of in-house and external data sources, identifying more severe and wide reaching hazards, and developing more project proposals for Commission consideration.

SENATOR MIKULSKI: You plan to spend $452,000 on these activities in FY 1990, an increase of $4,000. Yet the number of petitions to be processed are projected to decrease from five to three. Why is this so?

ANSWER: The decline in the number of petitions which we anticipate handling and the slight increase in resources for the subprogram are not directly related. Most of the petitions processed in 1988 and 1989 resulted from an effort to clear out a backlog of petitions several years old. Most of these petitions did not require extensive staff time because much of the work had been done during previous years.

It is always difficult to predict the quantity of resources that will actually be spent since we do not know the number of hazards or petitions, or their scope, which will come to our attention. For example, in January we predicted that we would receive only two petitions this year. At this point in the fiscal year, with over half the year remaining, we have already received twice as many (4) as we received last year. The petitions project represents staff time from the Commission's various technical directorates to examine each issue and recommend action to the Commissioners. It would not be reasonable or efficient for us to assume that future amounts could be reduced based on a single year's actual experience.

SECTION 15 OUTPUTS

SENATOR MIKULSKI: In last year's justifications (p. 40) you indicated that under Section 15 you would collect 550 samples, conduct 250 inspections, conduct 1,400 recall effectiveness checks in FY 1988. This year's justification show very different figures for FY 1988. You collected only 280 samples, conducted 295 inspections, and conducted 635 recall effectiveness checks. (p. 41 justifications.) Why were your original estimates so wide of the mark?

ANSWER: Five of the 1988 program outputs differed considerably from our initial projections for one of four reasons:

1. Case management improvements which were recommended by an internal review last year resulted in better targeting of cases and a greater number of corrective actions.
2. A conscious decision was made to reduce the number of time-consuming indepth investigations on cases of

marginal interest to the Commission. Although increasing efficiency, the IDI figure declines.

3. Our focus on Import Surveillance as a highly efficient means of identifying noncomplying regulated products has produced a concommitant decrease in Section 15 sample collection, inspections, and recall effectiveness checks.
4. Utilization of fewer FTEs than projected affected most Section 15 outputs. It resulted because Field office vacancies were not filled until late in the fiscal year, or early in fiscal year 1989.

The following table summarizes the changes in certain of the output categories.

1988 PROGRAM OUTPUT CHANGES

	1988 Column of 1989 Budget	1988 Actual	Differences	Percent Change	Reasons for Changes
Samples collected	550	280	-270	-49	Impt. Surv. Work; better targeting of cases; fewer staff
In-depth injury investigations	1,425	1,110	-315	-22	Program decision impt. surv. work; fewer staff
Inspect. conducted	400	295	-105	-26	Impt. surv. work; fewer staff
Corrective actions initiated	50	132	+82	+164	Improved case management
Recall effectiveness checks	1,400	635	-765	-55	Impt. surv. work; lowest priority effort; fewer staff

PRIORITY PROJECT SELECTION

SENATOR MIKULSKI: Given CPSC's budget reductions, the selection of priority projects is of utmost importance. Does the Agency have any plans to evaluate or amend its priority-setting criteria in light of the budget decrease?

ANSWER: The Commission presently relies on eight specific criteria for selecting projects to be supported as priorities each year, and has no plans to amend them. They include the frequency and severity of injuries, their causality, and the vulnerability of the population at risk, among others. We believe these criteria are basically sound. When applied to the numerous priority candidates recommended by staff and the public, they permit selection of the most pressing hazard problems which can be successfully addressed through our concerted action.

Rather than change the selection criteria, the Commission has responded to budget decreases by reducing the number of priority projects selected each year. There were ten priority projects in 1985, six in 1987, and only two in 1989. In FY 1990, the Commission has identified four. Our decision to reduce the number of priority projects has in part been guided by Congress' directive that projects be fully funded in the year they are selected as priorities. The FY 1990 budget does not permit us to do so, but we will give these priorities as much emphasis as possible.

DELETION OF PRIORITY PROJECTS

SENATOR MIKULSKI: Do you have any objective criteria as to when a product may be -- or should be -- deleted from the priority project list?

ANSWER: We do not employ any specific criteria for determining when a project should be deleted from the priority list. In general, the selection process favors projects which can be completed, or substantially completed, in one or two years of full funding. If the project is a fairly specific one it would not be continued the following year, or be continued only as a Consumer Information effort to disseminate information we found during the Hazard Assessment and Reduction phase. If the priority represents one aspect of a larger, more general project, that aspect may be completed in one or two years but other components of the project may continue, either as priority or non-priority efforts. Examples include Swimming/Diving, Poison Prevention, and Indoor Air Quality.

The concept of a short, focused priority effort does not apply in all cases. For example, the All-Terrain Vehicle (ATVs) project was selected as a priority in four successive fiscal years. The project was an extremely important one, it required a substantial resource commitment, and ignoring its importance as a priority would have belied its relative ranking among our various efforts.

WOMEN IN WORKPLACE

SENATOR MIKULSKI: About half of your workforce is comprised of women, is that correct? What percent are GS-12 or above?

ANSWER: Yes, about half (49.9%) of our workforce are women. Approximately one-third of them (32%) are in GS-12 or higher positions.

MINORITIES

SENATOR MIKULSKI: What percent of your workforce is comprised of minorities?

ANSWER: Approximately 30.1 percent of our total workforce are minority employees.

SENATOR MIKULSKI: What percent are in the GS-12 and above category?

ANSWER: About 29 percent of minority employees are in GS-12 and above positions.

QUESTIONS SUBMITTED BY SENATOR KERREY
TO THE COMMISSION

DECLINE IN DEATH RATE

SENATOR KERREY: In your budget justification you indicate that the death rate from consumer products has declined 25 percent since the first years of CPSC's existence. That is impressive.

Which of your activities do you believe have contributed the most to the decrease?

Are there other factors outside the CPSC -- such as increased litigation or greater social conscience on the part of manufacturers -- which have also contributed?

ANSWER: Our assumption is that the following are among the most important factors:

- o CPSC programs, including their direct and indirect impacts.
- o Generally increased consumer awareness of safety hazards.
- o Increased public litigiousness, spurring manufacturers to produce safer products.
- o Increased social consciousness of manufacturers.
- o Increased State/local involvement in safety issues.
- o Improvements in emergency care.

The direct effect of our programs includes those safety improvements which can be attributed to the mandatory safety standards we have implemented, voluntary standards developed with our participation and input, our Section 15 program to take substantial product hazards off the market, and accidents which have been prevented because consumers heeded safety messages they were able to hear or read about through CPSC's efforts. A graphic example is accidental aspirin ingestion deaths, shown on page 8 of the justification document. We believe that the cumulative impact of our activities since 1973 contributes substantially to recent declines in the death rate from consumer products.

The indirect effect of our actions is more difficult to quantify, but nonetheless real. It refers to safety efforts independently undertaken by manufacturers, importers, State and local governments, and others in areas other than those addressed by CPSC either because: 1) they are fearful that unless they act, CPSC will undertake enforcement or regulatory actions, or 2) they are spurred to action by our leadership or example in other areas. For example, manufacturers increasingly initiate voluntary standard development on their own; more manufacturers consider the safety aspects of new products before they are introduced; importers are beginning to think twice before attempting to bring dangerous products through our ports; and States have established safety standards and product testing laboratories, and passed their own safety legislation in areas such as All-Terrain Vehicles.

HAZARD CONTRACTS

SENATOR KERREY: Your budget justification indicates that there are no funds for hazard contracts in FY 1990.

Please list the contracts you let in FY 1988 and FY 1989 for this purpose.

Do you know what contracts you would let in FY 1990 if funds were available?

ANSWER: The following table shows contracts let by project in 1988, planned for 1989, and proposed in the September budget request to OMB for FY 1990. If funds were available for FY 1990, the ten projects listed would be funded.

HAZARD CONTRACTS
(Dollars in Thousands)

	1988 Actual	1989 Appropriation	1990 Request to OMB
Cigarette Lighters	$ 26	75	$250
Swimming/Diving	4	-	70
Gas Heating Systems	-	-	90
Fire Hazard Assessment	-	-	50
All-Terrain Vehicles	219	568	100
Riding Mowers	451	20	274
Chain Saws	2	4	-
Appliance Overheating	-	1	10
Cords and Plugs	17	2	-
Electric Fans	1	2	-
Choking Hazards	-	6	-
Bicycles	7	-	75
Indoor Air Quality	19	400	160
Poison Prevention	136	-	120
Totals	$ 882	$1,078	$1,199

ATV RESOURCES

SENATOR KERREY: Your justification indicates that you have spent a significant amount of time and resources on ATVs -- and I understand that this goes back several years too. Is this a particulary large problem and, if so, what made it so? Can you tell us the total amount of resources devoted to this over the past two years?

ANSWER: Between 1982 and 1983, ATV injuries had grown from 8,600 to 26,900 emergency room treated cases. This represented a more than tripling of ATV-associated injuries and was the basis for the Commission's involvement in ATV safety. Injuries eventually peaked at 86,400 in 1986, as did fatalities at 354, before starting to decline. A large percentage of injuries and deaths occur to children under 16 years of age. The large number of injuries and the alarming rate of increase, particularly involving children, required Commission intervention on an expedited basis. This involved a commitment of significant resources.

The Commission obligated $1.9 million and used 14 FTEs on ATVs in FY 1987, and $1.2 million and 14 FTEs in FY 1988. This totals $3.1 million and 28 FTEs.

IMPORT SURVEILLANCE COORDINATION

SENATOR KERREY: Your are involved with Customs in several import surveillance activities. How do you coordinate activities with Customs and how are joint operations financed?

ANSWER: Customs activities are coordinated at both the headquarters and local level under a Memorandum of Understanding signed by the two Agencies in October 1987. Data access, training and basic operating procedures are coordinated at the headquarters level. Specific import surveillance activities, including product coverage and level of activity, are coordinated at the local level.

No special funding has been requested or allocated for the joint operations. Each Agency pays for the salaries, travel, training, and incidental expenses of the staff involved in any operation. The Commission supports testing of most of the samples obtained by either CPSC staff, or under contract with State testing laboratories. Some samples are tested by Customs staff, however, and are thus financed through their appropriations.

CIGARETTE LIGHTER REGULATION

SENATOR KERREY: You have initiated development of a rule to make cigarette lighters more child-resistant.

What procedures will you follow between now and the time the final rule is promulgated? How long do you expect this to take?

ANSWER: The Advance Notice of Proposed Rulemaking (ANPR) initiating the development of a child-resistant lighter regulation was published in the Federal Register in March 1988. To make lighters child-resistant may require modification of existing lighters. This will require a test protocol to determine that lighter modifications are more child-resistant than lighters now on the market. A draft test protocol, using panels of children and adults, has been developed. This draft test protocol and suggested modifications are currently under pilot test. On completion of the pilot test, lighters now on the market will be tested to establish their level of child-resistance and prototype modified lighters will be tested so that acceptance criteria for a regulation can be established. Using these data, a proposed regulation will be drafted for inclusion in a Notice of Proposed Rulemaking (NPR). The NPR is planned for Commission consideration in 1991. Comments received will be analyzed and appropriate changes made to the regulation. A final regulation for Commission consideration is planned for late 1992.

ASTM's Task Group F15.02 is working toward a voluntary child-resistant lighter standard. The regulation now under development is expected to be an integral part of this voluntary standard. Any child-resistant standard developed by the Task Group will be considered as a possible substitute for a mandatory regulation.

NEISS MODIFICATIONS

SENATOR KERREY: You have been quite dependent upon the NEISS (National Electronic Injury Surveillance System) for identifying hazardous products, but you indicate you want to modify it. What do you think you are missing and how will you overcome the perceived omissions?

ANSWER: There are three areas where we recommend improvements in NEISS.

1. Increase the sample size. The small sample size 62-66 hospitals is much smaller than originally designed (130 hospitals) and therefore provides substantially less information than originally expected. An increase in sample size would increase the power of NEISS as a case-finding tool, shorten the time to conduct special investigation studies, increase the precision of the estimates, broaden the geographical coverage, and enhance the system's attractiveness to other Agencies which have indicated interest in sharing the data and costs of NEISS.

2. Add resources to support hospital coordinators. Contracts with the hospitals have been reduced so that hospital support is generally limited to reviewing records and coding and transmitting data on the product-related cases. Adding resources to the hospital contracts would enable the NEISS coordinator in the hospitals to spend additional time working with emergency room staff to assure that product involvement is specified in each record, to follow back and resolve any uncertainties in the information on the records, and to conduct follow-back investigations.

3. Modify NEISS to collect additional information on poisonings. NEISS currently collects only limited information on the poisoning cases treated in the hospital emergency rooms. CPSC currently supplements these data by purchasing data from poison control centers. A modified NEISS would collect additional information on each poisoning case (symptoms, treatment, etc.) and would, through statistical representation of poison control centers, eliminate the need for the separate purchase of these data.

AVAILABILITY OF NEISS DATA

SENATOR KERREY: Is NEISS data available to the public? For use in court?

ANSWER: Yes, NEISS data are available to the public through the Clearinghouse, and they are available for use in court. NEISS surveillance data tables are routinely made available to the public upon request. Narratives from emergency room cases and investigation reports are available after they have been purged in accordance with Section 6(b) of the Consumer Product Safety Act (CPSA). This information can also be obtained through Freedom of Information requests.

CPSC LITIGATION

SENATOR KERREY: How much litigation are you currently involved in? What made the litigation necessary?

ANSWER: The Commission is currently involved in 15 Federal court cases. In five of these, the Commission is defending itself against parties that are challenging our actions: one case involves CPSC enforcement of the Congressional ban on butyl nitrites; another case involves CPSC enforcement of its small parts regulation against fabric components; two cases involve CPSC's intended release of its information ("reverse FOIA"); and the final case in this category involves the CPSC's denial of a petition on methylene chloride.

In the remaining ten cases, the Commission or the U. S. Government is the plaintiff. These cases -- which become necessay when firms or other parties refuse to comply with Commission statutes, regulations, or orders -- include: a seizure of violative fireworks and a seizure of violative cribs; injunction actions against two toy importers and a mail order supplier of fireworks components; two cases against firms that refused to permit inspections by CPSC; a case against a firm that refused to comply with a CPSC subpoena; a civil penalty case against a firm that failed to report to CPSC a defective playground product; and a civil contempt case against a fireworks firm that violated a consent decree.

In addition, one administrative litigation matter is currently pending. In it, the Commission staff is seeking a determination that certain electric worm probes present a substantial product hazard, public notice of the hazard, and the repair, replacement, or refund of the purchase price of the product. This litigation is necessary because the firm declined to take remedial action voluntarily.

ACTIVITIES IN NEBRASKA

SENATOR KERREY: Do you have any activities, investigations or litigation in the State of Nebraska?

ANSWER: The Commission has, over the past several months, conducted several types of activities within the State of Nebraska. Examples are in the information and education area and in the incident investigation area as follows:

o Regional staff has worked with the State Designee, located within the State Health Department, to provide CPSC press releases which are incorporated in the Department's "Health Beat", an on-line information data system available to media and local health officials. In addition, through the State Designee, direct mailings have been made to county extension advisors in the areas of nursery safety, poison prevention packaging, and holiday safety.

o The City of Lincoln Fire Department was provided with informational and educational materials to help them address a cigarette lighter problem involving youngsters.

o Injury incidents are investigated as they come to staff's attention via coroner reports, newspaper articles, consumer complaints, and other means. These may be initiated for special epidemiological study purposes or for compliance determinations.

o There have been relatively few compliance investigations of regulated products due to the nature of the industry located within the State of Nebraska.

QUESTIONS SUBMITTED BY SENATOR GRASSLEY
ANSWERED BY ACTING CHAIRMAN GRAHAM

COLLEGIAL STRUCTURE VS. SINGLE ADMINISTRATOR

SENATOR GRASSLEY: You also state that your "Responsibilities require the philosophical, political and practical considerations that only a collegial structure containing checks and balances can provide."

Can either of you, or both, provide a more thorough explanation of this conclusion. I would like a couple of examples from which you based your conclusion. So, specifically, would you please describe a responsibility that requires checks and balances in the three terms you mentioned?

o Do you really think that the mission of the Consumer Product Safety Commission would suffer under a single Agency head? What evidence do you base this conclusion?

o Wouldn't the increased efficiency of the decisionmaking process under a single-headed Agency outweigh whatever collegial structure benefits you have argued?

ANSWER: I believe that safety issues should be bipartisan issues and that the key to the fulfillment of the Commission's mandate is reasoned government action. I believe that the checks and balances inherent to a collegial structure ensures that the Commission fulfills its responsibility to both industry and the consumer. Examples of where the debates of a collegial structure were successful are ATVs and lawn darts. On the issue of ATVs, even though I voted against the consent decree because it did not go far enough, the majority believed otherwise and endorsed the consent decree. However, without the debates of a collegial structure the consent decree would not be as strong as it is now. My colleagues listened to my concerns and attempted to address many of them. I believe that due to the collegiality the ATV consent decree is stronger and, therefore, better protects the consumer. Lawn darts is another example of how the collegial body works. At first the former Chairman voted against the ban of lawn darts. After much debate he changed his mind and favored the ban.

I do not believe that a single administrator will be any less committed to the mission of the Agency than members of a collegial body. I question, however, whether a single administrator would bring to the Commission the diversity of opinion and the reasoned approach that is basic to a collegial structure. I also believe that a collegial body ensures a measure of accountability that is lacking in a single administrator structure. The accountability factor ensures that issues will be debated from different angles until a reasoned and sound decision is made. As to whether it would be more efficient to have a single administrator, I believe again that any short term gains in efficiency are outweighed by the lack of debate and give and take that is inherent to a collegial structure.

SENATOR GRASSLEY: In view of S. 1411, a bill to establish the Consumer Product Safety Commission as an independent Agency as opposed to a multi-member Commission, that I introduced during the 100th Congress, you should not be surprised by my following line of questions.

You both state that you oppose the proposed change in the appropriation language that would give the Chairman full authority until the Agency is reauthorized, and that you defend the Commission's structure for its collegial structure.

You seem to be concerned about the Commission losing its flexibility, independence and diversity of opinion needed to address safety issues.

Upon what facts or experience do you base this conclusion?

ANSWER: There are two separate issues involved, the Commission's flexibility and independence on the one hand, and the diversity of opinion on the other. I believe the Commission should retain its current status as an independent Agency, a status accorded many other Agencies involved in regulating commerce and safety. The basic principle underlying such independence is that Agencies are more free to take action based on objective determination of fact and need, rather than partisan political or other considerations less germane to regulatory issues.

Of course, the concept of independence and flexibility applies to internal as well as external concerns. The Consumer Product Safety Act requires that Commissioners serve seven year terms; Commissioners may only be removed for neglect of duty or malfeasance; no more than three Commissioners may be affiliated with the same political party; Commissioners may not engage in any other business or employment; and other such requirements. These serve to engender an independence of thought and action among the Commission on all items brought to them for decision. This has in fact occurred. I believe Commissioners feel free to take positions which reflect their understanding and analysis of the particular product issue at hand, rather than following regulatory philosophies with which they might disagree. This leads to a healthy diversity of opinion, even among members with the same political affiliation.

Diversity of opinion among Commissioners is in fact valuable; I believe we owe it equally to the American consumer and manufacturers of consumer products to ensure that the Agency in charge of regulating such products is as comprehensive as possible. This means considering such divergent interests as the impact on corporate profits, long-term health effects, and a product's inherent value to society. While most Commission decisions are made fairly quickly, with the unanimous or near-unanimous support of the Commissioners, decisions on especially sensitive or controversial issues usually take additional time to consider their various ramifications. They often result in compromise solutions which incorporate aspects of different policy interests. It is an immensely difficult, if not impossible task for one individual to impartially consider all these factors. The Commission form goes a long way toward ensuring that different philosophical, political, and practical considerations are always raised and discussed in a public forum before action is taken.

DIFFERENCES IN ADMINISTRATIVE STRUCTURE

SENATOR GRASSLEY: Contrast for me, if you can, the beneficial differences between your collegial Commission and that of an independent Agency headed by an administrator? You may use any

Agency you wish to draw this comparison.

ANSWER: I am presently aware of only one independent, executive branch agency with a regulatory mission, the Environmental Protection Agency (EPA). I believe that our regulatory mission is the single most important factor in recommending that the Commission structure be retained. Most independent regulatory agencies have a commission form a management, including:

- o Commodity Futures Trading Commission
- o Equal Employment Opportunity Commission
- o Federal Communications Commission
- o Federal Maritime Commission
- o Federal Trade Commission
- o Interstate Commerce Commission
- o Nuclear Regulatory Commission
- o Securities and Exchange Commission

BRAINSTORMING SESSIONS

SENATOR GRASSLEY: I have found it useful to encourage brain-storming sessions with my staff in order to draw out diversity of opinion. Don't you believe that an Administrator has the same opportunity?

ANSWER: Without question an administrator would have an opportunity to draw out and discuss divergent opinions with his or her staff. While useful, I believe that this process is substantially different from the collegial discussion of Commissioners. Final decisions by a single administrator do not depend on a vote of the participants; there is no institutional need to compromise or develop an alternative, agreed-upon middle ground; and most importantly discussions do not have to be conducted in public.

OTHER AGENCIES

SENATOR GRASSLEY: Would you recommend that we instead transform all of our single-headed agencies into Commissions? Why or why not?

ANSWER: My recommendations do not extend beyond what I believe to be best for the Consumer Product Safety Commission. However, the basis of my concerns is integrally related to the Commission's regulatory mission. I believe that there are approximately ten regulatory Agencies that are currently independent bodies. Some of them, such as the Federal Trade Commission, the Interstate Commerce Commission, the Commodity Future Trading Commission, and the Federal Maritime Commission, are as small or smaller in size than CPSC.

RATIONALE FOR PROPOSED LANGUAGE

SENATOR GRASSLEY: Describe, to the best of your knowledge, the reasoning and arguments of OMB in favor of the appropriate language giving the Chairman full authority until reauthorization of the Commission.

ANSWER: To the best of my knowledge OMB provided no specific rationale in favor of giving the Chairman full authority.

QUESTIONS SUBMITTED BY SENATOR GRASSLEY
ANSWERED BY COMMISSIONER DAWSON

COLLEGIAL STRUCTURE VERSUS SINGLE ADMINISTRATOR

SENATOR GRASSLEY: In view of S. 1411, a bill to establish the Consumer Product Safety Commission as an independent agency as opposed to a multi-member Commission, that I introduced during the 100th Congress, you should not be surprised by my following line of questions.

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o Upon what facts or experience do you base this conclusion?

o Contrast for me, if you can, the beneficial differences between your collegial Commission and that of an independent agency headed by an administrator? You may use any Agency you wish to draw this comparison.

o Would you recommend that we instead transform all of our single-headed agencies into Commissions? Why or why not?

I have found it useful to encourage brain-storming sessions with my staff in order to draw out diversity of opinion.

o Don't you believe that an Administrator has the same opportunity?

ANSWER: Congress has created a number of multi-member commissions to administer the laws that it has enacted. The Consumer Product Safety Commission is not unique among health and safety regulatory agencies in its commission form.

My belief that the collegial structure provides for diversity of opinion and necessary accountability in an independent agency is based on nearly five years of experience as a Commissioner. My concern rests primarily with the need for an accountability mechanism in an independent regulatory agency. Should Congress decide to change the structure to a single-administrator agency, then I would urge that it be placed within a cabinet-level agency.

While it is true that staff members sometimes debate issues at their level, their views are necessarily based on a government career perspective. I would question whether a single administrator would have the opportunity to consider all sides of complex questions when the analysis is provided only by career staff. Those charged with responsibilities of decisionmaking affecting both the health and safety of consumers and important sectors of the economy need to have the insights only available from debate conducted at the policy level.

REASON FOR CHECKS AND BALANCES

SENATOR GRASSLEY: You also state that your "responsibilities require the philosophical, political and practical considerations that only a collegial structure containing checks and balances can provide."

o Can either of you, or both, provide a more thorough explanation of this conclusion? I would like a couple of examples

from which you based your conclusion. So, specifically, would you please describe a responsibility that requires checks and balances in the three terms you mentioned?

o Do you really think that the mission of consumer product safety would suffer under a single agency head? What evidence do you base this conclusion?

o Wouldn't the increased efficiency of the decisionmaking process under a single-headed agency out-weigh whatever collegial structure benefits you have argued?

ANSWER: Allow me to provide one example in which the collegial structure because of its philosophical, political and practical diversity decided on a course of action opposed by the agency head which saved the U. S. taxpayers $300,000 per year.

Until 1986, the CPSC maintained a separate office in downtown Washington for the Commissioners and top staff. Our appropriations subcommittee and OMB had repeatedly recommended consolidating all the offices at our Bethesda site, where the majority of the headquarters personnel work. The consolidation proposal, which would not only save thousands of taxpayer dollars, but also provide for a more efficient decisionmaking process, was vigorously opposed by the Chairman. The Commission ultimately voted 2-1 to move out of the expensive downtown office and into the Westwood Towers building in Bethesda. This decision demonstrated fiscal restraint, prudent management and a concern for the taxpayers. A copy of the statement I issued at the time is attached.

Clearly, the laws that the Commission administers could be changed and enforced efficiently by a single administrator. But the larger issue, I believe, is how best to administer the laws entrusted to us by Congress. It is my opinion that the best and most prudent way is by a collegial body.

Most of our work revolves around determining what constitutes an unreasonable risk. Since such determinations are not based on a formula but result from the weighing of often complex factors, a collegial structure promotes vigorous debate which gives equal weight to all the issues. Such debate may slow the decisionmaking process, but acts as a safeguard against rash decisions.

One of the negative aspects of placing the CPSC's function under a single administrator and/or into another cabinet-level agency, is that decisions might tend to be made at lower levels without the visible, in-depth public debate to which they are subjected in the collegial system.

OMB APPROPRIATIONS LANGUAGE

SENATOR GRASSLEY: Describe, to the best of your knowledge, the reasoning and arguments of OMB in favor of the appropriation language giving the Chairman full authority until reauthorization of the Commission.

ANSWER: It is still unclear to me the reasoning behind OMB's suggested appropriations language giving the Chairman full authority. However, the former Administration was on record as favoring the single administratorz concept, and this is perhaps a potential step in that direction.

U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, D.C. 20207

STATEMENT BY COMMISSIONER CAROL G. DAWSON
REGARDING CONSOLIDATION OF COMMISSION STAFF
OCTOBER 10, 1986

I am pleased that the Commission has finally put an end to a long-standing waste of taxpayer's money by its vote on October 9, 1986 to consolidate the agency's two Washington-area offices.

For as long as I have been a member of the Commission, I could find no justification for spending hundreds of thousands of dollars annually for a downtown Washington office for fewer than 30 persons. While the waste of federal funds was bad enough, the two locations also kept the Commissioners physically separated from their professional staff. This is a poor management practice, and one that should have been ended long ago. I am happy that my colleague, Commissioner Graham, shares these concerns and supported a speedy move.

The Commission has given the staff explicit instructions to make the consolidation work with a minimum of expenditure and a maximum of speed. There is a limit on one-time moving costs and there will be no extensive renovations at the Bethesda site. I am proud of the Commission's decision today as an example of fiscal restraint and prudent management practices.

ADDITIONAL QUESTIONS SUBMITTED BY SENATOR GRASSLEY
TO THE COMMISSION

IMPORT SURVEILLANCE SUCCESS

SENATOR GRASSLEY: On page 4 and 5 of your statement you describe your success working with Customs as having "The double effect of reaching 100 percent of violative goods in target shipment".

o What exactly do you mean by this, that you have found violations in each ship targeted?

o Do you have any idea what percentage of violative goods slip through undetected?

ANSWER: The reference in our statement to reaching 100 percent of the violative goods does not mean that we have found violations in every shipment targeted for examination. Rather, that reference is to the fact that compared to marketplace surveillance, dockside sampling of imported toys prevents 100 percent of noncomplying toys in that shipment from entering commerce and reaching the consumer. In the case of marketplace surveillance, when noncompliance is found after the products have entered the distribution channels, we seldom are able to recover more than 10 to 15 percent of the toys once they have reached consumers.

The Commission's import surveillance program does not examine all imported products entering the country. The Agency does not have sufficient resources for such a massive effort. Our surveillance is designed to examine large amounts of toys or other products for limited periods of time (usually of 2-3 weeks duration) at selected strategic ports of entry throughout the country during the peak seasonal periods. In addition, we maintain a low level of surveillance at various ports throughout the remainder of the year. We do not know what percentage of the imported products we do examine, but suspect it represents a small percentage.

CIVIL PENALTIES

SENATOR GRASSLEY: On page 9 of the budget request book, you state that you collected $1 million in civil penalties for "failure to report product defects."

Do you have a figure for the total amount the Commission collects for all penalties.

ANSWER: The $1 million collected for failure to report product defects reflects the total amount of civil penalties the Commission collected for calendar year 1988. The Commission also may seek civil penalties from persons who manufacture for sale, offer for sale, distribute in commerce, or import into the United States products not in conformity with a consumer product safety rule (standard or banning regulation) issued under the Consumer Product Safety Act (CPSA). There are very few standards or banning regulations issued under the CPSA, and in calendar year 1988, no penalties were sought for violating standards or bans issued under the CPSA.

There are numerous violations of banning regulations issued under the Federal Hazardous Substances Act (FHSA). These

violations primarily involve imported toys and other articles intended for use by children that violate the toy safety regulations issued by the commission under the FHSA. The Commission currently has no authority to seek civil penalties for violations of those regulations.

HAZARD IDENTIFICATION AND ANALYSIS MANAGEMENT

SENATOR GRASSLEY: On page 11 of your budget request book, you have listed under Table 1, Hazard Identification and Analysis.

Can you explain why such a large amount of money is being spent under the Management Support column with so few full time employees, compared to the other amounts spent in the remainder Management Support columns?

ANSWER: The Management Support subprograms all include computer charges for that program, since they directly support management of the projects within the program. Also, computer costs are not separable by each individual project. Hazard Identification and Analysis Management Support includes the majority of the Commission's computer charges, which are considerable (approximately $800,000). These costs are associated with the collection and processing of injury data from the NEISS hospitals. The remaining funds in the subprogram support salary and overhead costs associated with the management FTEs.

1987 GRANTS

SENATOR GRASSLEY: Also on page 9, you mention that you awarded grants to three universities for development of new child-resistant packaging. Were these competitive grants? What are the three universities?

ANSWER: The grants to develop innovative child-resistant packaging were received by Michigan University ($47,975), and Western Michigan University ($57,075), working together, and the University of Wisconsin-Stout ($79,745). These Universities were competitively selected based upon their response to a public solicitation, Request for Application, CPSC-RFA-87-1153.

The draft invitation for grant proposals and criteria for selection of the grantee were subjected to public review and comment, prior to issuance, through a Federal Register Notice and a mailing to parties interested in, or affected by, child-resistant packaging designs.

NUMBER OF STANDARDS

SENATOR GRASSLEY: You continue to prefer voluntary standards developed in cooperation with industry to mandatory ones. Today, how many voluntary standards are in place as compared to mandatory ones. What are the mandatory ones?

ANSWER: Since the Commission was established, its staff has monitored or participated in the development of over 150 new or revised voluntary safety standards. Approximately 115 of these have been published to date.

The Commission administers and issues a significant number of mandatory rules of different types. They are all published in

Title 16 of the Code of Federal Regulation (CFR), Part 1000 to end. Subchapters B-F of the CFR
table of contents, lists the titles of the major ones. The only major one not included is the ban on lawn darts.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Consumer Affairs

STATEMENT OF ROBERT F. STEEVES, ACTING DIRECTOR

ACCOMPANIED BY FRANK R. MARVIN, DIRECTOR, MANAGEMENT STAFF

INTRODUCTORY REMARKS

Senator Mikulski. Now we are going to call the Office of Consumer Affairs from the Department of Health and Human Services.

The subcommittee welcomes Mr. Robert Steeves, the Acting Director of the Office of Consumer Affairs for the Department of Health and Human Services.

As we understand it, this Office helps ensure that the consumer's needs and viewpoints are represented within the Federal Government as well as to educate and inform citizens how to be more responsible to consumers in the marketplace.

One of the things that troubles me on your budget is the proposal to contract out half of the work done by this Office, reducing its civil service staff from 22 to 10 FTE, and it will mean that this Office will have been reduced by 80 percent since 1980.

We want to review that proposal with you today, Mr. Steeves, and we want to hear what you have to tell us in the way of the mission, what you hope to do, and how you would like to do it.

SUMMARY OF OPENING STATEMENT

Mr. Steeves. Thank you, Madam Chair.

We do appreciate your interest and this opportunity to appear before the committee, and the assistance of the Committee staff in our operations and programs. I think the relationship has been a very good one and we look forward to a continuation in the future.

I will condense my prepared statement, with the Chair's permission, to highlight a few of the points, and then respond to any questions that you may have.

We were pleased with our efforts in 1988 to help consumers function more effectively in the marketplace. Our annual National Consumers Week was again a success. An estimated 100 million persons were reached through 600 local and national programs.

Distribution of 1.7 million copies of the fourth edition of our most popular Consumer's Resource Handbook is proceeding on schedule. We have an adequate supply to meet public demand until the printing of the fifth edition October 1989.

Twenty agencies contributed roughly $800,000 to the printing of the fourth edition, and we will again seek help from these same agencies in covering the cost of printing the fifth edition of the handbook.

On June 16 the Office of Consumer Affairs and the Consumer Affairs Council will sponsor another Constituent Resource Exposition in the Cannon Caucus Room in the Rayburn Building. We expect 1,000 staff aides from the House and the Senate will meet with representatives of more than 40 Federal agencies to improve the handling of constituent inquiries and complaints.

The popular Congressional Liaison Handbook which we produce will be updated for the Expo and distributed. This handbook guides congressional caseworkers to the person in each agency who handles specific complaints. It also includes listings of free agency publications.

As you noted, Madam Chair, our program for 1990 differs significantly from previous years in that we propose to carry out a large number of our functions under contract in lieu of staff. We will continue OCA initiatives by drawing on persons having a wide range of skills for only those periods when they are actually needed.

The small staff of policy officers will concentrate on directing, reviewing, and using the data produced under contract to achieve the objectives for OCA as envisioned in the Executive Orders that govern our operations.

As part of the 1990 program we seek $100,000 for a contract study of the effectiveness of warning notices and disclaimer and disclosure statements on consumer products and services. These include statements mandated by Federal regulations on consumer products, such as foods, medical devices, and environmental chemicals, as well as nonregulatory warnings and disclaimers, such as those on vehicles and appliances and those applied by travel agencies and repair shops.

Despite their proliferation, little is known about the effect these labels and statements have on consumer behavior. It also appears that some firms attempt to use such statements and labels simply to avert liability, although the effect of that practice is unclear.

We believe the request for funding for fiscal 1990 will provide a level of program activities essential to the representation of the interest of consumers by the Office of Consumer Affairs and we recommend favorable consideration by the committee.

Thank you, Madam Chair.

[The statement follows:]

STATEMENT OF ROBERT F. STEEVES

Thank you Madam Chair.

I do appreciate the opportunity to appear before the Committee to respond to any questions you may have regarding funds covering operations of the U.S. Office of Consumer Affairs in fiscal year 1990 and the extent and effectiveness of our efforts to represent interests of consumers in the marketplace.

We expect appointment soon of a senior officer to fill the recently vacated position of Director, OCA. In the interim, the OCA career staff now is implementing the specific initiatives authorized for 1989 and continuing the planning required for programs in Fiscal 1990.

The budget request for 1990 of $1,988,000 and 10 FTE will enable us to build upon our most successful programs. For example, we plan to expand our series of briefings of corporate officials in major U.S. cities on the mutual benefits, to both business and consumers, of aggressive, pro-active handling of consumer complaints. As the national leader in analyzing and identifying ways to improve consumer complaint handling, we want companies to adopt the aggressive, pro-active model systems we advocate because they will find, as General Electric, General Motors and

other firms have found, that prompt and equitable resolution of complaints improves their competitive position and increases profits!

Our efforts in 1988 to improve systems of redress for consumers have included substantive changes to improve the functions of an independent arbitration panel set up to resolve disputes between funeral directors and consumers. The decisions of the panel now will be binding on the funeral directors, and a fund will be set up to insure payment when restitution is mandated by the panel.

We will continue to provide ideas and opportunities to encourage business, government and consumer groups to voluntarily join together to resolve other marketplace problems without further governmental regulation, as appropriate.

We were pleased with our efforts in Fiscal 1988 to help consumers function more effectively in the marketplace. Our annual National Consumers Week (NCW) was again a success. An estimated 100 million persons were reached with the message "Consumers Buy Service", that is, customers appreciate good service and business profits by paying attention to service. OCA's 2 F.T.E. and $35,000 investment in organizing and promoting NCW was a catalyst for private sector participation. For example, the private sector provided posters, flyers and "how to participate" information. The estimated cost to them was more than $50,000. One firm paid for full page ads in six newspapers featuring NCW. The cost of just one of the ads in the New York Times was $35,000. Of course, as in the past, the cost of all individual local and national NCW events was covered by sponsors. The OCA staff is now working on NCW 1989 and already laying groundwork for fiscal year 1990, with expectation of continuing broad based public response.

Madam Chair, we continue to be concerned about the need for expanding marketplace survival skills programs for consumers of all ages. The recently released study conducted by the National Assessment of Educational Progress involving 1.4 million students revealed that, while American students have made improvements in basic math, reading, writing and science, relatively few students can apply that knowledge to basic marketplace decisions, such as calculating simple interest on a loan. Nor can they understand a newspaper essay, or write a persuasive letter—abilities essential to be effective as a consumer and as a wage-earner. As part of our efforts to improve consumer skills in the marketplace, we will soon be distributing a kindergarten through 12th grade consumer and economic curriculum package to teachers through the Newspaper in Education instruction program of the American Newspaper Publishers Association Foundation. As a related step we will seek private sector funding for development of video and/or written training modules with distribution to teachers and regional newspaper staffs.

For the adult audience we will continue to build on our current partnership with the American Association of Community and Junior Colleges. A major phase of this effort was a recently completed national study which revealed that consumer programs delivered through community colleges are vital in equipping adults of all ages with the skills necessary to survive in today's rapidly changing marketplace. Private sector funding is being sought for individual "mini-grants" of $10,000 to $15,000 to assist colleges in developing or expanding such programs in partnership with local business and other groups.

We believe that the combined efforts of educators and business can aid in assuring that education which improves consumer effectiveness for the marketplace will also improve productivity in the workplace.

Distribution of the 1.7 million copies of the 4th edition of our most popular Consumer's Resource Handbook is proceeding on schedule. We will have an adequate supply available at the Consumer Information Center's facility in Pueblo, Colorado to meet public demand until printing of the 5th edition in October, 1989. Twenty agencies contributed $800,000 to print the 4th edition and we will again seek help from those same agencies in covering the cost of printing the 5th edition of the Handbook. Plans for distribution of the Handbook will be consistent with agency response to our requests this year for contributions. Assuming prior levels of support by participating agencies continues, we are asking for $350,000 in fiscal year 1990 to distribute, through the Consumer Information Center, 825,000 Handbooks and some 125,000 copies of other publications of vital interest to consumers.

I am pleased to announce that in June of this year, under OCA leadership, the Consumer Affairs Council will be sponsoring another biennial Constituent Resource Exposition in the Cannon Caucus Room of the Rayburn Building. We expect some 1,000 Congressional staff aides to meet with representatives of more than 40 Federal agencies. The objective of this Expo is to improve handling of constituent inquiries and complaints. The popular Congressional Liaison Handbook will be updated for the Expo and distributed. This Handbook guides Congressional caseworkers to the

person(s) in each Federal agency who handle specific complaints. It also includes listings of free agency publications.

Our program for 1990 does differ significantly from previous years in that we propose to carry out a large number of functions under contract. The OCA staff would be reduced from 22 to 10 FTE but contract services will increase from $395,000 in 1989 to $1,008,000 in 1990, or an increase of $613,000. The benefit will be the ability to continue OCA initiatives by drawing on persons having a wide range of skills for only those periods when they are needed. The small staff of policy officers will concentrate on reviewing, directing and using the data produced under contract, including those produced under reimbursable details, to achieve the objectives for OCA as envisioned in Executive Orders 11583 and 12160.

Other changes proposed for 1990 will result in a total increase for the year of $280,000, including $15,000 for travel. $10,000 would be available to provide assistance needed for the travel of consumer leaders, representing low income groups, to a contemplated National Conference of Consumers in Washington DC. The remaining $5,000 would be used to provide essential coverage at meetings of consumer groups and officials outside of the U.S. The meetings involve regulatory and trade issues which are important to consumers.

The authorization level for OCA travel has remained virtually unchanged over an 8 year period. Thus, as costs to OCA for lodging, meals and transportation have increased, OCA representation at important policy forums has decreased. The situation has been compounded in international travel. Trade has become more global in nature with issues and problems, including those relating to consumers, transcending national boundaries. Representation is essential in forums such as those involving nations engaged in establishment of product standards that have potential for non-tariff trade barriers. But, in the past, simply because of the travel ceiling, OCA was not represented in the Working Party of the OECD Committee on Consumer Policy dealing with product safety, banking, and life insurance, and the World Consumer Congress of the International Organization of Consumer Unions. The increase of $15,000, as proposed, would restore OCA travel to the 1972 level of $60,000 and enable effective representation of the interest of consumers.

As part of the $280,000 increase for 1990, OCA seeks $100,000 for a contract study of the impact of, and alternatives to, warning, disclaimer and disclosure statements. These include statements mandated by Federal regulations on consumer products such as foods, drugs, medical devices, toys and environmental chemicals, as well as non regulatory warnings and disclaimers on vehicles, home fixtures, and appliances and those applied by travel agencies, repair shops and dry cleaners. Despite their proliferation, little is known about the effect of warning labels or disclosure and disclaimer statements on consumer behavior. It also appears that some firms attempt to use those statements as a shield from liability, though it is unclear whether this tactic works.

In carrying out its responsibilities under Executive Order 11583, to conduct research concerning the needs, interests and problems of consumers, and through extensive staff contacts with 42 Agency members of the Consumer Affairs Council, OCA is uniquely positioned to oversee a comprehensive study by a major research organization on the scope, trend and implications of warning labels and disclosure and disclaimer statements for consumers, business and government. OCA can also facilitate comprehensive consideration of the study findings by concerned federal agencies and non-Federal groups.

Madam Chair and members of the Committee, we believe that the request for funding in Fiscal 1990 would provide a level of program activities essential to the representation of the interests of consumers by the Office of Consumer Affairs as envisioned in Executive Orders 11583 and 12160. We strongly recommend favorable consideration by the Congress.

Biographical Sketch

EDUCATIONAL BACKGROUND

Master of Laws, Georgetown University Law Center, 1968

Juris Doctor, Georgetown University Law Center, 1964; ranked in 10% of Law Class, Member of Law Review Staff

Bachelor of Science (Pharmacy), University of Connecticut, 1959

PROFESSIONAL BACKGROUND

March 1981 to Present: Deputy Director, U.S. Office of Consumer Affairs

1977 to 1981: Deputy Associate Commissioner for Legislative Affairs (Legislation) Food and Drug Administration, Office of Legislative Affairs.

Responsible for the Legislative Staff operations and served as the principal staff advisor on legislative issues, including the development of the legislative program of the FDA, preparation of official policy statements and testimony for FDA and HHS officials on legislative issues, and responses to the Congress and other inquiries on legislative proposals and issues affecting FDA, and directing the FDA Legislative Staff.

1976 to 1977: General Counsel, White House Office of the Special Assistant to the President for Consumer Affairs. Responsible for providing legal and legislative counsel and the development of statements and responses to inquiries and requests from within and outside the government for and on behalf of the President's Special Assistant for Consumer Affairs relating to consumer issues or the operation and functions of the office, and directing the legal staff.

1970 to 1976: Attorney, Private Practice of Law. Engaged in the private general practice of law, including trade association clients in the legislative and regulatory interests which required preparation of submissions to regulatory agencies and Congressional committees.

1969 to 1970: Vice President and General Counsel, Pharmaceutical Card System, Inc., (now a subsidiary of Foremost-McKesson, Inc.) Served as the Washington representative and counsel, and one of five founders, of this pioneer firm in the business of third-party payment systems for prescription drugs. Assisted in resolving the legal and regulatory issues in establishing this independent claims processing entity.

1964 to 1969: Director, Legal Division, American Pharmaceutical Association. Responsible for providing in-house legal advice to this professional association, and the development of comments, testimony, and other materials for presentation to the Congress and other regulatory agencies relating to pharmacy and allied health issues,

1960 to 1964: Various staff functions. American Pharmaceutical Association. Responsiblities included editorial and writing duties, as well as organizing and running meetings and conventions sponsored by APhA

1959 to 1960: Assistant Editor, Drug Trade News, and Practicing Pharmacy. Served as a writer and editor of drug industry publication located in New York City, and practiced pharmacy in Connecticut.

STAFF EFFECTIVENESS

Senator MIKULSKI. Well, thank you very much. You did that in 5 minutes and it was very impressive.

First, let us say something about the work that is being done by the staff there, which we think is a very important function. Certainly the National Consumers Week is very important, the Consumer's Resource Handbook, which so many people use and turn to, and the Congressional Liaison Handbook, which is important to people. You not only need the right zip code, but you need the right 911 when you're calling. So we find that very helpful to all of us. I know we use the Congressional Liaison Handbook very carefully.

OMB REQUEST

I would like to get right to the heart of the contracting out issue, and also right to the budget.

What was your original or initial request to OMB in both dollars and FTE's?

Mr. STEEVES. Our original request was for $1,966,000 and 22 FTE. That was essentially a current services budget request to OMB with some pricing adjustments for additional staff costs, pay raises, and travel, with some additional funds for distribution of publications from the Consumer Information Center. And we requested an

additional $130,000 for a contract study of the effectiveness of warning labels and disclosure and disclaimers statements and a national conference.

CONTRACTING OUT

Senator MIKULSKI. My staff, in looking over the budget justifications, is concerned that the use of contractors doesn't seem to add up in savings.

Their analysis says that on page 2 of your justifications it indicates that savings from reducing staff would total $425,000, yet the contracts would cost $471,000, with a total increase of 11 percent. So what's the point then?

Mr. STEEVES. I think the point, Madam Chair, is that contracting out increases flexibility in terms of the activities that we undertake. Rather than having to operate within the skills of 22 staff members, we can get a wider range of skills by hiring experts. The real savings are expected in future years and not in the first year of this budget. The anticipated savings would be from avoiding retirement, training, and other costs that would be involved with a permanent staff that we wouldn't have with contractors.

Senator MIKULSKI. OMB is doing some things with some other agencies, one of which is kind of giving a benefit, a personnel benefit, for contracting out. An agency I won't mention informed me, since I represent a lot of the Federal employees, that for every two jobs they contracted out they could also get three some place else. Did they tell that to you?

Mr. STEEVES. No.

Senator MIKULSKI. Of course you've only got 22.

Mr. STEEVES. Yes. It's a small operation and it would be hard to achieve that kind of savings.

Senator MIKULSKI. Who decided that contracting out should be the strategy? Was it the staff, the management leadership, or was this an OMB decision that said that's what they think you ought to do?

Mr. STEEVES. It wasn't a specific directive, but the 10 FTE was set with OMB after the intial much lower passback. There isn't any question in my mind about how the amount of money was established.

Senator MIKULSKI. But you all didn't sit around and say, "You know what, we've got this job to do and we want to know what's the best way to do it. We've got 22 people here, but we would do better if we kept *x* number of ourselves and contracted it out so we could have all this flexibility and, by God, we're going to go tell OMB that's what we want to do and, by God, we going to go tell the Congress that's what we're going to do because we want to get a dollar's worth of services for a dollar's worth of spending." Is that the way it got started?

Mr. STEEVES. That was not the approach. [Laughter.]

Senator MIKULSKI. You gave me the rationale and I just wondered how the rationale started.

Mr. STEEVES. We agree with the last part of the statement, that is we want to get a dollar's worth of services for a dollar spent. We have made great strides since 1981, as you noted in your statement.

While we reduced the staff from about 55 FTE people in 1981 to 22 in 1989 we have essentially maintained the workload that we had in 1980. It has required us to modernize, with computers making a big difference in our staff capacity.

Our request to OMB was for a staff of 22 with $1,966,000. That was the initial internal decision, as a group sitting in a conference room, considering what we would like to do. But we in OCA don't set overall manpower and budget allocations.

Senator MIKULSKI. No; but you do have recommendations.

EFFECT OF STAFF REDUCTIONS

I'm concerned about what will happen to the employees who will be, for want of a better word or a less harsh word, displaced. How many of your current staff would lose their jobs, what happens to them, and what categories will be displaced? What are your plans?

Mr. STEEVES. We will try to reduce the staff by attrition to the extent possible. Our goal is to cut the staff level by 12 FTE and we probably could do a third of that by attrition. So about eight people would be displaced.

Our intention is to contract out with senior policy officers monitoring the contracts and reviewing the data produced. Of the staff of 10, I think that probably 8 would be senior policy officers.

STAFF REDUCTIONS—PHILOSOPHY

Senator MIKULSKI. Mr. Steeves, I'll tell you something. I think that stinks, and let me tell you why, because this goes to a pattern I see in government all the time, and particularly with the OMB boys. We've got to be more efficient, we've got to contract out, we need all that expertise, but what do you contract out?

First of all, you contract out the expertise, and I'm not knocking your policy people. I'm sure they're great, I'm sure that I would want them on my own team if I ran your agency, but what happens is that we keep the coordinators of the coordinators and lay off the clerical people when they are essentially the infrastructure that keeps this country going. It is the GS–9's and below, they are usually women, they are usually people of color, and everybody else who has got the degrees, you're going to keep the same people who would do the work for policy analysis to review the contracts. That doesn't make sense to me.

You hear this irritation and you hear this ire not because of your 8 people or your 10 people, but because of the thousands that I see every darn time it is contracted out. The first to get hit are usually the women, usually the clerical positions, and so on, and the coordinators of the coordinators or the thinkers of the thinkers or the readers of the readers get to stay on the job, and I'll tell you, I don't like it.

I would hope then if you're going to contract out for expertise you reevaluate how you are going to do it. I don't want to see any of your people lose their jobs. So any of your policy analysis people here, no, that's not me that I'm after. It is an attitude, it is a philosophy, and it is who is on the hit list.

I'll tell you, I am not the only Democratic woman ever elected to the U.S. Senate in her own right to sit here and watch that contin-

ually the Federal hit list are the people who are at most risk. I don't like it and I don't like contracting out. But most of all, when the rationale is given to me that contracting out should be an area because you need flexible expertise and you're going to contract out the clerk-typist, I don't get it. I really don't get it.

Mr. STEEVES. The only response I can venture to that, and I do it somewhat gingerly, Madam Chair——

Senator MIKULSKI. This is the message that they are all going to hear. You think Darman is not going to hear this?

CLERICAL EMPLOYEES

Mr. STEEVES [continuing]. Is that our ratio of clerical staff is not typical of most Federal agencies. The clerical element in our operation is very small. Most of the documents that come out are typed by the professionals themselves on the word processing equipment. Everyone in our operation has a PC or its equivalent.

So while there would be a number of lower graded employees, most would not be clerical. I think we have five clerical positions on the staff.

Mr. MARVIN. Yes.

Senator MIKULSKI. Yes; and then do they go?

Mr. MARVIN. We would have two. Let me add, Madam Chair, in reaching some decisions on contracting out, we were constrained by regulations that require Government officers to make the basic policy decisions requiring value judgments and to do the supervision and direction of Federal employees. So there are positions which we cannot contract out. For example, we simply cannot contract out the Deputy Director's job, or a management officer's job, or a senior policy officer's job.

We have very carefully studied the implications of contracting out OCA functions. We are very sensitive to your view and our view, too, about the impact on very junior employees. We are particularly concerned that the individuals who are most likely to be affected are those who are on limited term appointments. They don't have much seniority in government, they are young, and they don't have a lot of money saved. Because we are sensitive we're working closely with departmental officials to see if we can minimize the effect of a reduction in force.

There is not much cost to the Government for terminating the employees, but we know that the impact on the staff is significant so we have come up with the best possible mix in contracting out given our limited flexibility.

Senator MIKULSKI. My time is up and I'm going to turn to Senator Fowler for any questions he might have.

ESTABLISHMENT OF OCA

Senator FOWLER. Thank you, Madam Chair.

When was your Office established?

Mr. STEEVES. The Office of Consumer Affairs was established as it exists today in February 1971.

Mr. MARVIN. By Executive Order 11583.

Senator FOWLER. Has it always been under HHS?

Mr. STEEVES. No. Initially it was in the Executive Office of the President.

Senator FOWLER. And then we moved it when?

Mr. STEEVES. It was moved in the Nixon administration.

Mr. MARVIN. In January 1973, sir.

CONSUMER'S RESOURCE HANDBOOK—DISTRIBUTION POLICY

Senator FOWLER. I have seen the Resource Handbook and commend you for it. How do you distribute that?

Mr. STEEVES. The distribution is through the Consumer Information Center in Pueblo, CO. When we get contributions from the Federal agencies, we ask that a certain portion of the number of Resource Handbooks that they pay for and prepare be given to a common pool that goes to the Consumer Information Center in Pueblo to meet individual requests from all around the country.

Senator FOWLER. From individuals?

Mr. STEEVES. Yes; from individuals. They can request a free copy.

Senator FOWLER. Is it distributed through the Federal book stores?

Mr. STEEVES. No; it's not available through the Federal book stores because it's not for sale.

Senator FOWLER. You don't sell it privately, do you?

Mr. STEEVES. No.

Senator FOWLER. Why not? Why don't you put it on the racks between all the steaming romances? [Laughter.]

Mr. MARVIN. The reason we don't sell it is because we know that there would be an adverse impact on the demand, and our objective is to get as many copies out as possible.

Senator FOWLER. What in the hell does "adverse impact on demand" mean?

Mr. MARVIN. The adverse impact is that every time somebody makes a misdirected call to a Federal agency or writes a misdirected letter, it's going to end up costing the Federal Government money. For example, several years ago one of our contractors determined that it would cost $8 to $10 to process a misdirected letter and get it back on track. Therefore, every time we can avoid somebody sending a letter to the wrong place, we are saving money.

Senator FOWLER. You lost me. All I asked is how come you don't market it? That's a good resource.

Mr. MARVIN. That's why we don't market it, because the demand will absolutely fall.

Senator FOWLER. Why do you know that absolutely?

Mr. MARVIN. Because any time a price is put on an object—and the Consumer Information Center has long ago determined this—the demand falls.

Senator FOWLER. No, no, no. See, that's why computers don't work because you just forget common sense. That may be true if the market knew about the product, but the great 248 million Americans don't know about the product if it's not out there for them to see. Therefore, all that computer garbage goes out the window.

My question is, and I think I know the answer, have you researched the fact. We are trying to help consumers, and we are

using the public's money to help consumers. We have got an excellent handbook that helps consumers, and yet the only way that the consumer can get that product is if he or she happens to know that you can write Pueblo or go to a certain place and get it.

Now with all the administration's love of private entrepreneurism, which is the real heart of contracting out, why in the world don't you sell it, or has there been a consideration to sell it?

CONSUMERS RESOURCE HANDBOOK—DISTRIBUTION ALTERNATIVES

Mr. STEEVES. A long-term effort, Senator, has been to turn the project over to somebody on the outside who would take the book, reproduce it, and market it. I know that happens sometimes with documents published by GPO. Somebody else prints it in paperback for less money. Often it is out faster than the GPO document distributed through the GPO book stores.

We have explored several opportunities to do that, and we would like to see that happen.

Senator FOWLER. Then why did you decide not to?

Mr. STEEVES. Well, we have pursued those cases where we have thought we have had a shot.

Senator FOWLER. Well, will you do me a favor and reconsider that. It's very hard and it's as frustrating for us as it is for you that we spend all this money when we are in deficits and dwindling Federal resources. If there is anything that is hot property everywhere in the country, it is intelligent information on consumer products.

You have already made the case with the big companies, as you say in your statement, that it's good business to pursue consumer complaints and have a mechanism to do that.

All of us are asked, you know, about should we buy generics and are they as good as brand names, or what is it in our water and our food and air and how can we as consumers evaluate that. And yet we spend all this money and yet we don't have a marketable item on the market.

Now I think that your superiors in the executive branch, it seems to me, would be very pleased to see this entrepreneurial initiative, especially since they can't copy it. You've got your own copyright there and you can put it out and put it out at any price you want to.

It seems to me when the the smallest paperback now costs $4.95, you could put this out at $2.50 or something like that and make a lot of money, or at least pay for the cost.

Mr. STEEVES. We have considered that in some depth, and the only way that we can put it out as a governmental agency is through GPO. GPO has to produce it, and they do, in fact, issue the contracts for printing. They also set the price, and they would sell it through the GPO book stores.

Senator FOWLER. Well, don't do it that way. Let's break some new ground. Come in and ask the Congress and this Committee or somebody for privately contracting out. Go to Dell tomorrow, go to Viking and say, "Look, we are Republicans, you know, and we're going to private contract everything out. We've turned the world over to private entrepreneurship and we've got a hot property here

because people want and need this information" and see what they say. All of the sudden, I mean they could sell a few books and you could meet your own $2 million budget for goodness sakes. But if you're going to be private contractors, go with your gold. This is what makes your reputation.

Why hide the damn light under the bush? Why keep publishing it when they've just got a little in-house network of people who get 10,000 Government publications, you know, everything from breast feeding to teaching people whether or not to dive in swimming pool. I just hope that you will examine that.

I hear my time is up.

CONCLUDING REMARKS

Senator MIKULSKI. Yes, and we thank you. I think you're on to something, Senator Fowler.

There are many questions we would love to ask, but the Senate is moving at a pace and we'll be meeting at 2 in a closed session, and many of us have responsibilities we must complete before 2 on that Hastings impeachment.

We thank you for your testimony and your own hard work. Just know of our frustration, and we think that OMB's vision goes as far as their green eye shade. So we are not keen on a lot of that.

SUBMITTED QUESTIONS

We thank you, and we have some other questions for the record.

[The following questions were not asked at the hearing, but were submitted to the Office for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR MIKULSKI

BRIEFINGS TO CORPORATE OFFICERS

Question. In your opening statement you say that you plan to expand your series of briefings to corporate officers on the mutual benefits of aggressive complaint handling. Please describe these briefings in more detail, which corporations will be represented, and how you "market" these briefings to corporate executives.

Answer. We intend to use the highly successful initial briefing we held at the Wharton School in Philadelphia as a model. It was cosponsored by Fidelity Bank. Invitations, signed by the Special Adviser to the President for Consumer Affairs and Fidelity's President, went to the CEO's of major companies in the Delaware Valley who make or sell consumer products or services. Letters of acceptance were quickly received from 50 top-level executives, an excellent response we attribute in large part to the participation of Fidelity, a very important bank in the Philadelphia area.

The briefing focused on the results of our Complaint Handling in America studies, summarized in our publication Increasing Customer Satisfaction, and the documented bottom-line benefits of aggressive complaint handling. More than two-thirds of the companies represented at the executive briefing sent customer service managers to a two-day follow-up seminar sponsored by the Society of Consumer Affairs Professionals. Among the results: Dunlop Tire set up a toll-free telephone system with computerized response and tracking; Almay changed its policy and made its toll-free number far more accessible to consumers; Rorer Pharmaceutical began a pilot study of a toll-free number system; Other companies such as First Pennsylvania Bank, Atlantic Electric, PSFS (financial services), and Fischer & Porter (laboratory and water treatment equipment) began planning or installing telephone and/or data processing upgrades of their existing systems. These responses underscore the importance of getting this information before senior management of more companies.

Our plan for fiscal year 1990 is to stage six similar briefings in other major commercial centers around the country. The briefings will be planned and conducted by a contractor. Under the guidance of a long-time OCA staff officer, the contractor

will bring together regional and national companies and professional associates stressing the advantage of more effective complaint handling in retaining customers, and improving American competitiveness. Identification of specific locations for the briefings and selection of firms to be invited will be a central part of the initial phase of the contract.

WARNING LABELS STUDY

Question. You plan to spend $100,000 to study the impact of warning labels on consumers. Why wouldn't this be more appropriately studied by the Consumer Product Safety Commission? Since CPSC is the regulatory agency responsible for requiring warning labels, wouldn't it be within their jurisdiction to see how effective warning labels are?

Answer. Many agencies besides CPSC require warning labels, among them the Federal Trade Commission, Environmental Protection Agency, Food and Drug Administration, Bureau of Alcohol, Tobacco and Firearms, Department of Energy, and Occupational Safety and Health Administration. In addition, state governments and standard-setting organizations mandate warning labels on various products and individual companies sometimes include them on their own initiative. We estimate that warning labels, disclosures and disclaimers affect programs of some 18 Federal agencies. OCA, with its broad authority under Executive Order 11583 to conduct studies "concerning the needs, interests and problems of consumers," is uniquely positioned to study this issue.

Question. Are you aware that CPSC's Division of Human Factors has done at least 8 studies on the effectiveness of warnings? What new findings do you expect to unveil?

Answer. We have consulted with CPSC's Division of Human Factors and were informed that their research has focused narrowly on specific labeling issues with which they are concerned, e.g., the manipulation of label content to make clear that some age-labeling of toys relates to safety and not developmental capacity of the child. The concern we would like to address is the wholly new environment created by the proliferation of such labeling in the past ten years. In other words, these labels are supposed to protect or at least inform consumers in a meaningful way of risks. The question is, are they. There has been little research into the impact proliferation has had on consumer perceptions of, and attitudes toward warning labels, disclosures and disclaimers. The study we propose would provide a snapshot of the state and effectiveness of warning labels, disclosures and disclaimers in the marketplace, and provide a benchmark against which new labeling proposals could be considered.

Question. When do you expect to begin and complete the study?

Answer. We have proposed a 1-year study. It would begin in fiscal year 1990, following a competitive bidding process.

Question. How do you plan to publicize the results of the study?

Answer. The study's findings, conclusions and recommendations would be in the form of a report by the contractor to OCA. We cannot prejudge whether that report would be appropriate for development into a publication for general release with attendant notice to the media, as we would hope, or simply shared with concerned agencies and organizations and made available on request.

CONSUMER'S RESOURCE HANDBOOK

Question. Last year OCA told us that you would be working on the Consumer's Resource Handbook beginning in the spring of fiscal year 1989. You anticipated completion in the first quarter of fiscal year 1990. Will you be on schedule with that?

Answer. Yes. Our present schedule calls for printing by the Government Printing Office in October 1989.

Question. What is the total cost to OCA for development and distribution of the Handbook and have you considered private sector contributions to cover part of the costs?

Answer. Our analysis of the fourth edition of the Handbook printed in 1987 indicates that it costs about $1 per copy for development, printing and distribution. We believe the Handbook benefits all parties and interests associated with it the individual citizens are helped by enabling prompt redress, it helps business retain customers, and it helps government avoid misdirected complaints that cost the government and the taxpayer $8 to $10 each.

The Handbooks are in the public domain immediately after printing and can be duplicated by the private sector. We encourage such reprinting and we can make a

computer tape available at a very modest cost to the private vendors. We are always interested in finding sources of funding from other than appropriated funds and are exploring alternate methods of making the information available to a larger audience more efficiently. Thus far, we have not found a suitable alternative to government funding.

CONGRESSIONAL LIAISON HANDBOOK

Question. I understand that at the beginning of every new Congress OCA prints a Congressional Liaison Handbook listing personnel in agencies that a Congressional staffer could contact. How much do you plan to spend on updating and printing this handbook in fiscal year 1989 and when will it be available?

Answer. The cost of updating and printing the Handbook is about $2,000. The 1989 edition will be available for the June 16, 1989 Constituent Resource Exposition to be held in the Cannon Caucus Room.

Question. How does this handbook differ from the Consumer's Resource Handbook?

Answer. The Congressional Liaison Handbook identifies the mission of the agencies in terms that relate to constituent inquiries and complaints, Congressional liaison personnel and their telephone numbers, agency prescribed turn-around times for Congressional correspondence, lists of each agency's most requested publications, and—primarily for the larger agencies—information to help Congressional staff quickly get to the correct office or person for a particular complaint or query.

The Consumer's Resource Handbook includes lists of consumer complaint handling and inquiry offices of state and local governments, corporations trade associations, and voluntary groups, as well as information on selected Federal agencies. The Consumer's Resource Handbook also provides information on complaining effectively, tips on avoiding consumer problems, and special information for disabled consumers. Many congressional constituent service staffers find both of these handbooks quite useful.

AMERICAN ASSOCIATION OF COMMUNITY AND JUNIOR COLLEGES

Question. In your opening statement I noted with interest that you plan to continue to build on your partnership with the American Association of Community and Junior Colleges. Please describe this partnership for me.

Answer. Our partnership with the American Association of Community and Junior Colleges (AACJC) is a commitment to help America's adults improve their skills as consumers, productive wage earners and informed citizens. The objective is to expand delivery of consumer education activities through the nation's network of some 1,200 two-year colleges.

The first major phase of this partnership was a benchmark study to determine what was already being done. This study was completed in fiscal year 1988 and the results announced at a joint press conference in November 1988. Released at that time was an Executive Summary, produced by OCA, which presented major study findings and recommendations for responding to consumer program needs of the colleges. Also developed was a list of innovative programs of community colleges that can serve as models for others.

The next major-phase, currently underway, is AACJC's two-year "mini-grant" program whereby individual community colleges can apply competitively for up to $15,000 to help establish innovative consumer programs that will provide both information and skill development opportunities for students on campus and adults in community-based programs. The source of the minigrants will be private sector funds secured and managed by AACJC with staff guidance from USOCA on program content and direction. AACJC has received an initial commitment of private sector funds and plans to announce the first round of grants by Fall 1989 and a second round by early 1990, as fund commitments increase.

OCA will continue to be advise AACJC as they bring together consumer and community college leaders to provide guidance and resource materials for local consumer programs.

GRADE CREEP

Question. You are projecting an average GS grade of 12.88 in fiscal year 1990, compared to 10.65 for the past two fiscal years. Why is this significant increase supposed to occur?

Answer. The increase in average 65-grade relates to the proposed use of contractors in lieu of 12 OCA employees. The currently authorized staff of 22 would be re-

duced to 10 with certain commercial type activities of OCA being performed by contract personnel. Consistent with OMB Circular A-76, OCA would continue to perform those functions which are inherently governmental in nature and so intimately related to the public interest as to mandate performance only by Federal employees.

In fiscal year 1990 the staff of 10 employees would concentrate on policy formulation; monitoring programs conducted by the 42 Federal agency member Consumer Affairs Council; supervising the work performed by contractors; and, serving as a catalyst to business, state and local governments and constituent groups. Since the more senior graded policy positions would be retained as the core of the staff in fiscal year 1990 and the more junior positions eliminated, the average grade would increase. However, we do expect that there would be considerable savings to the government as contractor experience and increased efficiency reduces future costs.

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

STATEMENT OF MARY M. LEVY, ACTING DIRECTOR

ACCOMPANIED BY:

WILLIAM B. EARLY, JR., DEPUTY COMPTROLLER FOR BUDGET, GENERAL SERVICES ADMINISTRATION

JERRY YOUNG, DIRECTOR, PROGRAM SUPPORT DIVISION, CONSUMER INFORMATION CENTER

INTRODUCTORY REMARKS

Senator MIKULSKI. We are now going to ask that the Acting Director of GSA's Consumer Information Center, Ms. Mary Levy, come forward.

The Consumer Information Center prints and distributes about 16 million consumer information catalogs annually and distributes the 200 publications listed in that catalog.

And, by the way, we think that's terrific. I've looked through that catalog, and it's one of the biggest demands in our pamphlet rack in our office or when we go out and do constituent outreach and so, again, coming out with that whole idea of the people's right to know, the right to be heard, and the right to be protected, and the best protection is your own good judgment when properly informed.

Ms. Levy, I see you've brought along GSA's dedicated and hard-working people, like Bill Early.

We welcome you, Mr. Early, and we're not going to ask you today on how many agencies you're going to put in Maryland with all the pamphlet racks. [Laughter.]

Mr. EARLY. Thank you, Senator.

Senator MIKULSKI. Ms. Levy, we welcome you here and very eagerly look forward to your testimony. We think you are a real jewel in the Federal expenditures.

Ms. LEVY. Thank you so much.

I would like to introduce to you Jerry Young, who is our Division Director for Program Support.

I have a statement for the record that I would like to briefly highlight.

Senator MIKULSKI. Very good.

OPENING STATEMENT

Ms. LEVY. Madam Chair, I am pleased to present to you today the fiscal year 1990 budget request of the Consumer Information Center.

For nearly two decades the CIC has furnished a reliable and effective system for Federal agencies to provide important informa-

tion to the public. This information covers a variety of subjects that significantly affect many aspects of our daily lives. They include such topics as health and safety, employment and credit rights, mortgage and housing issues, and Federal benefits.

CIC publishes the quarterly Consumer Information Catalog and works closely with other Federal agencies and the media to make consumers aware of the availability of this information. We then coordinate fulfillment of the resulting orders from a distribution facility in Pueblo, CO.

In fiscal year 1988, CIC distributed 9.7 million publications as compared to 9.6 million during the previous year. We achieved this stable distribution level despite a further tightening of agency resources throughout Government. Moreover, CIC projects that these distribution levels will continue during fiscal years 1989 and 1990.

In keeping with budget constraints, CIC constantly develops ways to increase the effectiveness and reduce the costs of distributing publications. We carry out these initiatives by working closely with the Pueblo facility to ensure that orders are processed and filled in the most economical fashion.

Our efforts were so successful that in spite of the increased number of publications distributed during fiscal year 1988, distribution costs declined slightly from the previous year both on a per-unit cost basis as well as on a total-cost basis. It will be a challenge for us to maintain these decreases in the face of higher postage costs.

The publications going out to consumers from Pueblo are the result of ongoing efforts by CIC's agency liaison staff. They work closely with more than 100 Federal offices to help them develop, promote, and distribute valuable publications such as the following:

To provide information to the nearly 38 million Americans receiving social security benefits, CIC helped the Social Security Administration develop a public education campaign to promote two new booklets, "Social Security—How It Works for You" and "Request for Earnings and Benefit Estimate Statement." As a result, CIC filled requests for more than one-half million social security publications during fiscal year 1988.

To help in educating Americans about AIDS, CIC obtained three AIDS-related booklets from the Departments of Education and Health and Human Services for nationwide promotion and distribution. They are "AIDS," "AIDS and the Education of Our Children," and "Who Donates Better Blood for You Than You." We are also working with the National Institutes of Mental Health on the development of a publication that will give helpful advice to anyone with relatives or friends who have AIDS.

To keep the public informed on environmental hazards, CIC is working with the Environmental Protection Agency to provide clear information on what citizens can do to protect the environment and minimize or reduce health risks from environmental factors. "A Citizen's Guide to Radon" explains the dangers and how to test for this radioactive gas. CIC is also working with EPA to update the current version of "Radon Reduction Methods: A Homeowner's Guide" and has just listed for the first time in the spring catalog a new joint Consumer Product Safety Commission/EPA

publication entitled, "The Inside Story: A Guide to Indoor Air Quality."

CIC's media activities are a vital link in building public awareness of the availability of Federal information. CIC utilizes all aspects of the media, working with radio and television stations, newspapers, magazines, and newsletters to let citizens know about the wide variety of helpful publications listed in the catalog.

Program efforts include regular news releases and broadcast scripts, as well as an annual nationwide television public service advertising campaign promoting the availability of Federal consumer publications. As a service to the public, the media annually provides free air time and print space worth in excess of $5 million to CIC.

In summarizing our budget request, the CIC is requesting an appropriation of $1,360,000 for fiscal year 1990. This amount represents a nominal increase of $6,000 from 1989. As part of our budget request, we are programming the costs of special projects within the limitation for administrative expenses. This change will provide additional flexibility for CIC to meet unanticipated issues that need to be addressed on behalf of consumers. At the same time it retains congressional controls on CIC's budget process as well as on spending limitations. The net result is a more smoothly and effectively functioning CIC system for providing services to the public.

Thank you for your attention, and I'll be happy to answer any questions at this time.

[The statement follows:]

STATEMENT OF MARY LEVY

Mr. Chairman and Members of the Subcommittee, I am pleased to present to you today the fiscal year 1990 budget request of the Consumer Information Center (CIC).

For nearly two decades, the CIC has furnished a reliable and effective system for Federal agencies to provide important information to the public. This information covers a variety of subjects that significantly affect many aspects of our daily lives. They include such topics as health and safety, employment and credit rights, mortgage and housing issues, and Federal benefits. CIC publishes the quarterly Consumer Information Catalog and works closely with other Federal agencies and the media to make consumers aware of the availability of this information. We then coordinate fulfillment of the resulting orders from a distribution facility in Pueblo, Colorado.

In fiscal year 1988, CIC distributed 9.7 million publications as compared to 9.6 million during the previous year. We achieved this stable distribution level despite a further tightening of agency resources throughout government. Moreover, CIC projects that these distribution levels will continue during fiscal years 1989 and 1990.

In keeping with budget constraints, CIC constantly develops ways to increase the effectiveness and reduce the costs of distributing publications. We carry out these initiatives by working closely with the Pueblo facility to insure that orders are processed and filled in the most economical fashion. Our efforts were so successful that, in spite of the increased number of publications distributed during fiscal year 1988, distribution costs slightly declined from the previous year both on a per unit cost basis as well as on a total cost basis. It will be a challenge for us to maintain these decreases in the face of higher postage costs.

The publications going out to consumers from Pueblo are the result of ongoing efforts by CIC's agency liaison staff. They work closely with more than 100 Federal offices to help them develop, promote, and distribute valuable consumer publications such as the following:

1. To provide information to the nearly 38 million Americans receiving Social Security benefits, CIC helped the Social Security Administration develop a public education campaign to promote two new booklets, Social Security . . . How It Works For You and Request for Earnings and Benefit Estimate Statement. As a result, CIC

filled requests for more than one-half million Social Security publications during fiscal year 1988.

2. To help in educating Americans about AIDS, CIC obtained three AIDS-related booklets from the Departments of Education and Health and Human Services for nationwide promotion and distribution. They are: AIDS, AIDS and the Education of Our Children, and Who Donates Better Blood for You Than You. We are also working with the National Institutes of Mental Health on the development of a publication that will give helpful advice to anyone with relatives or friends that have AIDS.

3. To keep the public informed on environmental hazards, CIC is working with the Environmental Protection Agency (EPA) to provide clear information on what citizens can do to protect the environment and minimize or reduce health risks from environmental factors. A Citizen's Guide to Radon explains the dangers and how to test for this radioactive gas. CIC is also working with EPA to update the current version of Radon Reduction Methods: A Homeowner's Guide and has just listed for the first time in the spring Catalog, a new joint Consumer Product Safety Commission/EPA publication entitled The Inside Story: A Guide to Indoor Air Quality.

CIC's media activities are a vital link in building public awareness of the availability of Federal information. CIC utilizes all aspects of the media, working with radio and television stations, newspapers, magazines, and newsletters to let citizens know about the wide variety of helpful publications listed in the Catalog. Program efforts include regular news releases and broadcast scripts, as well as an annual nationwide television public service advertising campaign, promoting the availability of Federal consumer publications. As a service to the public, the media annually provides free air time and print space worth in excess of five million dollars to CIC.

In summarizing our budget request, the CIC is requesting an appropriation of $1,360,000 for fiscal year 1990. This amount represents a nominal increase of $6,000 from 1989. As part of our budget request, we are programming the costs of Special Projects within the limitation for Administrative Expenses. This change will provide additional flexibility for CIC to meet unanticipated issues that need to be addressed on behalf of consumers. At the same time it retains Congressional controls on CIC's budget process as well as on spending limitations. The net result is a more smoothly and effectively functioning CIC system for providing services to the public.

Thank you for your attention. I will be happy to answer any questions at this time.

BIOGRAPHICAL SKETCH

Mary Miller Levy joined the Consumer Information Center (CIC) staff in 1973 as the CIC's liaison with educational and professional associations with on-going consumer programs. Ms. Levy became director of CIC's agency liaison programs in 1979, and is currently Director of the Media and Publications Division of the CIC. As such, she manages CIC's programs to develop helpful consumer publications and to obtain media coverage and promotion of Federal information, including CIC's annual television public service advertising campaign.

Ms. Levy began her career in the Federal Government as a Consumer Information Specialist with the U.S. Office of Consumer Affairs. Working directly with consumers, she handled complaints and inquiries directed to the President's Special Assistant for Consumer Affairs.

A native of Washington, DC, Mary Levy graduated Phi Beta Kappa from the University of Maryland in 1970. She received the 1982 Government Award from the Conference of Consumer Organizations for "outstanding cooperation and assistance to state and local consumer organizations," and the 1983 Distinguished Member Award from the Washington Chapter of the Society of Consumer Affairs Professionals in Business.

FISCAL YEAR 1990 INCREASE

Senator MIKULSKI. Well, first, Ms. Levy, and to your team, you're asking for $6,000 more out of $1 million budget on what you do. I think you are a bargain.

Ms. LEVY. Thank you.

Senator MIKULSKI. I know some people who can't get out the door and have to hire 73 consultants for a million bucks. [Laughter.]

Just knowing what you do, we just think it's phenomenal with, again, the enormous distribution network and so on that you have. So, really, our questions are not going to be about your budget. How can we ask about $6,000.

The other thing is, in particular in some of our committees, that if they don't come in and ask for $600 million they don't think it was worth driving down Independence Avenue, and we know a few. [Laughter.]

DEVELOPMENT OF PUBLICATIONS

We know that you had a distribution goal of 10 million and you came close to approaching that and you've done some very special outreach in really what we would call constituent hotline issues.

There are a couple of others that are growing, and I want to ask a question more about the process. Who decides whether a publication should be developed? Is it your agency or is it the agency most affected like EPA or NIH or HHS, or is it a combination? How does an idea get triggered that develops into a pamphlet that then has such a significant distribution, as your social security, your AIDS, your radon information—the things that we get 911 calls on?

Ms. LEVY. It can come from a variety of sources, Madam Chair, but most frequently from consumers themselves who let us know what subjects they are interested in. But, of course, it is ultimately the Federal agency that has jurisdiction. It's their decision of whether or not to publish on the subject.

Senator MIKULSKI. But they very often contact you rather than Dr. Sullivan or Mr. Bill Reilly because they are used to contacting you?

Ms. LEVY. Yes, Madam Chair, and we have information from consumers as a result of the orders we get in Pueblo that can help an agency see what subjects are important to consumers.

SUBJECTS FOR PAMPHLETS

Senator MIKULSKI. Well, I've got a couple of ideas on things. Could you tell what are the top three concerns that you are now getting, one for which you do have pamphlets and then for the others that you might not have pamphlets.

Ms. LEVY. Certainly. One of the most popular areas is on food and diet, particularly as it relates to health, and one of the most popular publications we currently have is "Planning a Diet for a Healthy Heart" from the Food and Drug Administration. This is a terrific publication that informs consumers about how they can change their eating habits to make a significant impact upon their health.

Another area of concern has to do with money management questions on which we have a series of publications that we have developed cooperatively with the American Express Co., and the U.S. Department of Agriculture.

Senator MIKULSKI. I saw them. One is "A Mutual Fund."

Ms. LEVY. Yes; that one is from Fidelity Investments, and American Express has another series that helps consumers adjust to changing financial circumstances throughout life. So on those two

areas—money management and nutrition and health—I think we are very well covered.

Also, in the health area, we are working with the National Institutes of Mental Health to develop a booklet for families of Alzheimer's patients.

Senator MIKULSKI. Not to interject myself in the process of that, my father died of Alzheimer's in December, and we lived through it from beginning to end from turning to a geriatric evaluation, the day care, and all of that. I would like to see a little bit of that developed just in some ways to provide not the input of a Senator, but maybe from somebody who has lived through it in terms of what we need to know in planning about what was going to happen to our dad medically, what we needed to develop within our home, and how to get dad's finances together. It was a stunning experience.

Ms. LEVY. Yes; that's a very important subject. Also in this area, we are currently working on another AIDS-related publication called "Someone Close Has AIDS." It will be developed to help the family of the AIDS patient.

Senator MIKULSKI. Have you received a lot of demand or feedback on AIDS information?

Ms. LEVY. Yes, we have gotten a lot of inquiries from consumers on different aspects of AIDS and that is why we are working with the National Institutes of Mental Health on that particular subject.

HEALTH INSURANCE

Senator MIKULSKI. Let me put out three things that I think, and again I don't want to manage your budget or anything, and I think Senator Grassley would agree with this one, the area that we are now in a firestorm over is the catastrophic health insurance bill. Nobody understands it, nobody knows what the dickens it will do, they don't know whether they should do Medigap, Stopgap, Rockygap. I mean my own mother calls and says, "Should I keep my Blue Cross?"

"Yes, mother."

"Well, what should I buy?"

I mean, you know, not everybody has a daughter with a master's degree in social work who worked on the bill. I'm sure Senator Grassley would agree, isn't this so?

Senator GRASSLEY. Yes, and not only that, but an analysis for the 30-some percent that are paying the income tax surcharge to know what type of insurance they are buying for that. They don't want to see themselves as paying what they call a tax and not buying protection. It would be very helpful for the reason that she gave of determining do they need any Medigap and is what they are paying for it worth it and then, second, they are actually buying something from the Government and they don't see themselves buying something from the Government.

Ms. LEVY. We agree with you. Health insurance is a very important issue and we have a number of publications that address it.

Senator MIKULSKI. But you know the new bill passed.

Ms. LEVY. Yes.

Senator MIKULSKI. Do they have publications on the new bill?

Ms. LEVY. Yes, Madam Chair, they do. As a matter of fact, we have some in our kits for you this morning.

There is a booklet called "Medicare Has Improved," and it talks about the catastrophic benefit protections. We have also just written a news release based on this information to explain in simpler language the new protections and the new benefits.

We also have a booklet called "Health Care and Finances—A Guide for Adult Children and Their Parents." This is one of our cooperative publications. We brought together Agriculture and the Health Insurance Association of America and they produced a booklet that helps consumers do just what you've said: To evaluate coverage under Medicare and other protection plans and to make informed decisions in other important financial areas.

Senator MIKULSKI. Then do you also have one on long-term care?

Ms. LEVY. Yes, Madam Chair, "The Consumer's Guide to Long-Term Care Insurance" which helps one decide what coverage is needed.

Senator MIKULSKI. Then you've got what I'm concerned about. In fact, I'm going to ask that we have a list of those.

[The information follows:]

PUBLICATIONS ON HEALTH INSURANCE

"Medicare Has Improved: Catastrophic Protection and Other New Benefits"; "The Consumer's Guide to Long-Term Care Insurance"; and "Health Care and Finances: A Guide for Adult Children and Their Parents."

REMARKS OF SENATOR GRASSLEY

Senator Grassley, I'm going to now turn to you for any statement you have and really the questions you might have.

Senator GRASSLEY. The only thing I need before you go is to make sure that I have permission for some questions that I had for the Consumer Product Safety Commission. I didn't get here for that and I would like to ask those questions.

Senator MIKULSKI. We will ask unanimous consent and I hear no objection.

Senator GRASSLEY. I have no questions, but I want to associate myself with your remarks complimenting the Office and say that from my standpoint what comes out of Pueblo are naturally the ones that we have the most connection with as a go-between for our constituents, and we appreciate that service. I only wish we could make more use of it in what we do. We probably don't make as much use of it as there would be need by our constituents because there are some limitations on the frank that we have to use those. That's a problem that the Senate has and not a problem that you have, but we like that service.

Madam Chair, I'm done then.

Senator MIKULSKI. Well, thank you very much, Senator Grassley.

CONCLUDING REMARKS

Senator MIKULSKI. Again, Ms. Levy, Mr. Young and Mr. Early, we thank you for your testimony, your excellent work, and I hope you feel good every day.

Ms. LEVY. Thank you.

Senator MIKULSKI. Seriously, I mean management and dealing with OMB, I just want to tell you you mean a lot to the American people. And maybe you heard me say earlier that the people have a right to know, a right to be heard, and a right to be protected. We're not going to regulate this. Again, the best regulator is you making informed decisions. Knowing the long-term care policy makes you make one. An insurance commission can't make decisions for you, and that's not the way our society works.

So we really want to thank you, and we want to encourage you to do this. You have obviously been a very good soldier with coming through this budget, with really a minimalist budget. I think the President, I'm sure, appreciates that also.

As we move along, and I'm going to chair this subcommittee for some time, we want to make sure that the good guys don't get punished in the long run. But, you know, sometimes you can be a good guy for 1 year, but you can't be it continually. So just know that we're interested, not only for you this year, but next. And also know we're pretty frustrated that everybody isn't so acting. You're not only acting, but you're an activist in consumer information and we would hope that the administration just moves it.

Ms. LEVY. I want to thank you for those comments, Madam Chair, and to say that the CIC staff is very dedicated to consumer information. It's a very rewarding and challenging job. And on behalf of our Director, Teresa Nasif, who is on maternity leave with her new little daughter, Alexandra, and who has done a great deal to contribute to this program, we look forward to appearing before you in the future.

Senator MIKULSKI. Are you out there in Pueblo?

Ms. LEVY. No, Madam Chair, we're here in Washington.

Senator MIKULSKI. Well, I think that wraps it up. We've now got three hard boiled eggs and one poached HHS Office of Consumer Affairs. [Laughter.]

SUBMITTED QUESTIONS

The following questions were not asked at the hearing, but were submitted to the Center for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR MIKULSKI

CONSUMER INFORMATION CATALOG

Question. On page 26 of your justifications, you indicate that you will be requesting reprogramming authority to fund printing of an additional 3 million Consumer Information Catalogs during fiscal year 1989. Why is this necessary?

Answer. Next month the Consumer Information Center (CIC) will request approval from the Committee for a two-part reprogramming which will:

1. Transfer approximately $60,000 from the Catalog printing area to Salaries and Benefits. This reprogramming will enable CIC to fully fund a projected fiscal year 1989 shortfall in personnel compensation which is a result of absorbing the salary increase this year and rapidly escalating benefit costs for personnel covered by the FERS retirement system.

This transfer will create a shortfall in printing funds amounting to approximately three million Catalogs. We estimate that a reduction of this size—to 13.5 million Catalogs as compared to 16.8 million copies printed and distributed in fiscal year 1988 could result in a decrease of more than one million publications distributed. CIC is forced to cut the Catalog because it is the only significant part of our budget that can be adjusted as events develop.

2. Increase the amount budgeted for fiscal year 1989 special projects from the current $100,000 to approximately $150,000. With Committee approval, CIC will then print the previously mentioned three million Catalogs as a special project.

Question. In your two-part reprogramming, you plan to increase the amount budgeted for fiscal year 1989 special projects from the current $100,000 to $150,000 in order to use those funds to print the 3 million additional Catalogs. Does this mean that all your special projects funds will be used to print additional Catalogs?

Answer. No, printing the 3 million Catalogs will cost about $75,000. This leaves $75,000 in special project funds which we will use to cover the IRS insert project ($51,000), the insert mailing to recipients of the Department of Veterans Affairs benefit checks ($14,000), as well as continuation of our newspaper Catalog reprint project and yet-to-be identified projects ($10,000).

Question. What had you originally planned to do with the special projects funds in fiscal year 1989?

Answer. As noted above, we will still be able to do all of the special projects we had planned for as of the beginning of fiscal year 1989. The reprogramming will affect only about $25,000 of the original $100,000 which was available for undetermined marketing projects which would be developed as the year progressed. However, without Catalogs to supply to new customers, there would be no need to undertake any additional marketing projects.

Question. As I understand it, the special projects funds come from your unobligated balance, is that correct?

Answer. Yes, that is correct.

UNOBLIGATED BALANCE

Question. You anticipate an unobligated balance of $763,000 at the end of fiscal year 1989, according to page 5 of your justifications. However, Ms. Nasif testified before this subcommittee last year that the unobligated balance was expected to be $689,000 at that time—a difference of $74,000. What is the reason that projection changed by more than 10%?

Answer. There are two primary reasons for this $74,000 difference in the unobligated balance estimated for September 30, 1989:

1. Last year's estimate was based on the projection that the unobligated balance would be reduced by $118,000 during fiscal year 1988. However, the actual reduction only amounted to approximately $64,000, which was $54,000 less than projected. The overestimation resulted from (a) an unspent fiscal year 1988 appropriated amount of more than $23,000 which had not been anticipated earlier in the year, (b) fiscal year 1988 distribution income exceeded costs by approximately $20,000 which also had not been anticipated, and (c) other smaller unanticipated changes in fiscal year 1988 income and costs.

2. Last year's estimate was also based on projections of fiscal year 1989 income from user fees and other sources that have subsequently been revised upward, therefore further raising by $20,000 the unobligated balance currently estimated for September 30, 1989. These upward revisions contributing to the changed projection were necessitated by actual fiscal year 1988 income experience.

Question. You project an obligated balance of $406,000 at the end of fiscal year 1990. Ms. Nasif has said in the past that $500,000 was a prudent amount to retain in the fund. Are you concerned about falling below this level? What is the rationale for allowing it to do so?

Answer. Yes, we are very concerned about depleting the unobligated balance of the Fund below $500,000. Rising personnel costs and our desire to develop some type of telephone Catalog ordering system have led us to project utilization of Fund monies at a faster rate than we would like. However, the $150,000 in special projects funds which we are requesting for implementation of a telephone ordering system in fiscal year 1990 is an estimate. We are diligently looking for ways to develop this capability at a reduced cost to CIC while providing a reasonably priced service for the consumer. CIC does not intend to deplete the Fund. We will continue to prudently manage the Fund to ensure that no actions are taken that would lead to that result.

SPECIAL PROJECTS

Question. You are requesting $150,000 for a new telephone order system. Please explain what this system is for, why it is necessary and whether you expect it to save money in the long run.

Answer. As currently envisioned, the telephone order system which we hope to establish in fiscal year 1990, would provide consumers a method to obtain a copy of

the Consumer Information Catalog without having to send a letter to our Pueblo distribution facility. Virtually all private sector mail order companies have telephone ordering systems and the consumer has come to expect the availability of this convenience. Assuming that we could provide the service to consumers at a low cost, we project that it would at least double the response to our public service advertisements offering the Catalog. The telephone system is intended to increase public access to and use of CIC services. It is doubtful that there will be any savings to CIC realized from the establishment of this system.

Question. As I understand it, beginning in fiscal year 1990 the costs of special projects such as the telephone order system will be included under "administrative expenses." Why is this change necessary?

Answer. Under this new approach, all expenditures for special projects will be treated as an administrative expense and will, of course, be subject to the limitation on Administrative Expenses set by the Subcommittee. Adoption of this definition of Administrative Expenses will provide CIC with more flexibility in the use of special project funds to meet program requirements and avoids the need to make arbitrary accounting distinctions between special project and administrative expense expenditures. At the same time it retains present Committee controls over CIC spending of funds.

PUBLICATIONS DISTRIBUTION

Question. Last year you estimated that you would distribute 10 million publications in fiscal year 1988. Did you reach that goal? How many do you plan to distribute in fiscal year 1989?

Answer. In fiscal year 1988 we distributed 9.7 million publications which was slightly more than the 9.6 million we distributed in fiscal year 1987. We currently project that CIC will maintain a distribution level of 9.7 million publications in fiscal year 1989. With the budget constraints that Federal agencies are currently working under, it has become increasingly difficult for agencies to maintain the variety, quantity and diversity of publications which we can then make available to the public.

A stable level of distribution under these circumstances indicates our success in: Demonstrating the value of consumer information to our client agencies; providing services which agencies have continued to need and use; and keeping distribution costs as low as possible while expanding the cooperative publishing and 50-cent programs.

Question. What subjects are consumers most interested in, according to the numbers of publications you distribute?

Answer. According to our consumer mail and distribution statistics, consumers are most interested in:

1. Food and Diet
2. Health and Fitness
3. Money Management
4. Help with Consumer Problems
5. Federal Benefits

Question. What were your most successful publication promotions during fiscal year 1988?

Answer. On June 26, 1988 Lloyd Shearer included an article on the booklet "Planning a Diet For a Healthy Heart" in the Intelligence Report section of "Parade Magazine." 170,000 consumers sent for the free booklet and millions more learned about better nutrition through this article.

Millions of consumers learned about the dangers of "Food and Drug Interactions," another free booklet, from "Dear Abby" on April 19, 1988. Nearly 127,000 consumers sent for a copy of the publication.

In June 1988, CIC working with the Department of Veteran Affairs and the Treasury produced an insert to be included with all benefit checks mailed to Veterans that month. This promotion resulted in requests for more than 225,000 copies of the following publications: "Planning a Diet For a Healthy Heart," "Social Security...How It Works For You," the "Consumer's Resource Handbook" and "A Consumer's Guide to Coin Investment."

Question. Last year the subcommittee asked you a series of questions on the distribution of AIDS publications. Given the extraordinary need to make the public aware of the AIDS crisis what are you doing to promote AIDS-related information?

Answer. CIC has three publications listed in the spring 1989 Catalog which help to educate the public about the AIDS virus. They are: "AIDS and The Education of Our Children" from the Department of Education; "Tips on Preventing AIDS" from

the Food and Drug Administration (FDA); and "Who Donates Better Blood For You Than You" also from FDA which answers questions about the blood supply and explains when storing your own blood supply is practical.

CIC has sent a news release based on each of these publications to over 6,000 journalists. Also, CIC wrote: :60, :30 and :20 spots on "AIDS and The Education of Our Children" and "Tips on Preventing AIDS" that were mailed to over 3,600 radio and television stations.

Also, in late spring, CIC will begin promoting a new booklet from the National Institute of Mental Health, "When Someone Close Has AIDS", which will assist care givers in handling the emotional aspects of the disease.

Question. You currently list in your catalog a publication entitled "A Citizen's Guide to Radon". How popular has this publication been?

Answer. CIC has had this publication in our Catalog since fiscal year 1987. It is a sales publication and currently is priced at $1.00. Though not a best seller, its popularity has remained steady over the years. CIC has distributed 31,000 copies of the publication through February 1989.

Question. You are planning to update the homeowner's guide to radon reduction methods. When will this be complete?

Answer. The Environmental Protection Agency (EPA) has recently completed a revision to this publication and will be printing it in the near future. CIC is working with EPA and hopes to be able to list the revised edition in our fall 1989 Catalog.

Question. What have you done to help consumers understand recent changes in Medicare coverage?

Answer. In the spring 1989 Catalog, CIC lists a helpful booklet, "Medicare Has Improved: Catastrophic Protection and Other New Benefits" from the Health Care Financing Administration. We are also sending a news release and broadcast scripts highlighting changes in coverage to our over 10,000 print and broadcast media contacts nationwide.

NUMBER OF FREE PUBLICATIONS

Question. Tightening budgets throughout the Federal Government have led agencies to reduce the amount of free publications they are able to distribute. Last year 42% of the publications CIC distributed were free. How has that percentage changed?

Answer. Over the last several years, the percentage of free publications offered in the Consumer Information Catalog has remained in the low 40 percent range. However, in fiscal year 1989, we have averaged 39% free publications in the Catalog editions printed to date.

Question. What is the price of the average sales publication?

Answer. There are two types of sales publications distributed by the CIC. The first is Low-Priced (LP) publications which are all priced at 50 cents. The cost is kept low because the expense of producing and distributing these publications is shared between the publishing organization and the consumer. The second is publications which are in the regular GPO sales program. GPO sets the price for these publications to recover all GPO costs associated with making them available to the public. The average price of these publications listed in the Catalog during fiscal year 1988 was $1.65. If we include LP publications in calculating the overall average price, it drops to $1.11 during fiscal year 1988.

COORDINATION OF PROJECTS WITH BUSINESS AND CONSUMER LEADERS

Question. What cooperative projects are you currently coordinating with business and consumer leaders across the country?

Answer. The CIC actively encourages industry to work with Federal agencies in the development of useful consumer information and works closely with agencies to identify cooperative publishing opportunities to maximize agency resources. We are currently coordinating several proposals for joint publications with Federal agencies and private sector partners covering topics such as.

1. Over-the-counter medications
2. Service contracts
3. Coping with financial change and crisis
4. "Helping Your Child" series on various educational topics.

Question. When a business produces a publication in conjunction with a Federal agency, who normally foots the bill?

Answer. In most cases printing has been paid for by the private sector. Distribution costs are more likely to be paid by the government agency, or by the consumer in the case of publications placed in our low-priced (50 cents) category. Through

fiscal year 1988, 38 cooperative publications have been made available to the public. The following shows how costs were shared:

Printing:	
Paid by Private Sector	33
Co-funded Private Sector and Gov't	3
Paid by Government	2
Distribution:	
Paid by Government	14
Paid by Consumer	14
Paid by Private Sector	7
Shared by Gov't/Private or Paid by Consumer	3

PUBLIC SERVICE MATERIALS—PREPARATION AND DISTRIBUTION

Question. Last year you budgeted $160,000 for preparation and distribution of public service materials. This year you are budgeting $190,000. Why is the increase of 19% necessary?

Answer. In fiscal year 1989 we budgeted $180,000 (which excludes $10,000 estimated for related travel costs) for preparation and distribution of public service materials. This budgeted amount comprises the cost of the competitively awarded contract to develop the CIC's annual public service announcements for television, one of the most important activities carried out by CIC. In fiscal year 1990 the budgeted amount rises to $190,000, an increase of 5.5%.

Although the fiscal year 1989 increase appears large, it should be viewed from the perspective of abnormally low bid prices received in the three preceding years. Despite television production costs generally increasing 5–7% annually, the cost of CIC's public service contracts remained stable and even declined starting in fiscal year 1986 when the cost was approximately $155,000. Therefore, the fiscal year 1989 budgeted amount more closely conforms to the reality of normal cost trends in the industry in recent years. Overall, CIC receives excellent value for its public service expenditures. The fiscal year 1988 contract produced five CIC public service announcements of varying lengths for less than the average industry cost ($156,600) to produce only one 30-second announcement.

SUPPLIES AND MATERIALS

Question. Last year's justifications showed a $4,000 supplies and materials budget for fiscal year 1988. I see in this year's justifications that you actually spent $9,044. Why did this budget more than double from over the original projection?

Answer. The costs include charges for (1) operating supplies ranging from paper clips to computer supplies and paper and (2) subscriptions to periodicals such as "Consumers' Research" and the "National Consumers League Bulletin." Although a relatively small part of the budget, these items play an important role in our ability to work with Federal agencies in developing and making available relevant consumer publications to the public.

When the budget was formulated for fiscal year 1988, we anticipated that the budgeted amount of $4,000 would approximate actual costs. However, during the year, costs in this area simply exceeded expectations. Based on their importance to the daily activities of CIC programs, we submitted a reprogramming request during fiscal year 1988 which included a doubling of funds for this area.

PUBLIC SERVICE ADVERTISING CAMPAIGN

Question. Your public service advertising campaign for television will increase in cost by $10,000. Why is this happening?

Answer. At the present time, television production cost increases are averaging 5–7% a year. Therefore, the increased amount represents an estimate of the cost of the competitively awarded contract for fiscal year 1990 to develop and produce the CIC's annual public service announcements for television.

BENEFITS

Question. You are requesting $110,000 for benefits in fiscal year 1990—close to 50% more than the fiscal year 1989 amount. Yet benefits decreased from $88,000 in fiscal year 1988 to $74,000 in fiscal year 1989. How do you explain this 16% decrease between 1988 and 1989 and then subsequent need for a 50% increase in 1990?

Answer. When the 1989 budget was originally formulated in June 1987, we projected that benefits would total $74,000 for fiscal year 1989. However, five employees

(25% of the CIC staff) have subsequently entered or converted to the Federal Employees Retirement System, thereby greatly increasing the amount required for benefits in fiscal year 1989. Later this year, we will send a reprogramming request to the committee for an additional amount in fiscal year 1989 benefits, which will bring it in line with the amount of $110,000 requested for fiscal year 1990.

MISCELLANEOUS PROGRAM REDUCTIONS

Question. Your justifications indicate that you are planning to make miscellaneous program reductions totalling $10,000. Please detail these reductions for the record.

Answer. The fiscal year 1989 budget includes a line-item under Other Services of $6,000 for the possible cost of alterations to the building space occupied by CIC. No funds are requested for this purpose in fiscal year 1990. The fiscal year 1989 budget also includes $18,000 for miscellaneous costs under Other Services. This line-item amount is reduced to $14,000 in the fiscal year 1990 budget, bringing the total reductions to $10,000. Miscellaneous costs under Other Services include the purchase of mailing lists, CIC participation in consumer conferences, and the cost of contracts with commercial firms for services such as art and exhibit illustrations.

QUESTIONS SUBMITTED BY SENATOR KERREY

Question. Your justification indicates that about 25% of your funding comes from direct appropriations. Is this the result of a decision that that is the appropriate share or did that simply evolve?

Answer. When the Consumer Information Center Fund was established by Public Law 98-63 during fiscal year 1983 having multiple sources of income, the direct appropriation that year totalled $1,351,000 or 31% of all income. That appropriated amount simply represented a continuation of appropriated levels for the Consumer Information Center in years prior to the establishment of the Fund. Moreover, beginning in fiscal year 1983, the amount of income to the Fund from each of the other sources was primarily from uncontrollable factors such as the ability of Federal agencies to fund distribution costs, the degree of participation by the private sector in the distribution program, and the extent of the interest of the public in ordering publications. Therefore, the proportion of income represented by the direct appropriation simply evolved over time.

Question. What portion of your orders are the direct result of the Consumer Information Catalog and what come from other sources?

Answer. In fiscal year 1988, catalog order blank orders were approximately 19.5% of our total publication orders. However, these orders accounted for 65% of our publication distribution in fiscal year 1988 since the average catalog order blank order requests approximately 14 publications.

Question. In 1988 the National Futures Association and the Commodity Futures Trading Commission produced a pamphlet, entitled "Investment Swindles: How They Work and How To Avoid Them." Have you reviewed the publication in light of recent disclosures in the commodity area? Please provide a copy of the publication.

Answer. The National Futures Association has informed us that they have thoroughly reviewed the publication and believe that it fully covers the issues in the subject area. There are currently no plans to revise the publication.

Question. If someone calls and says, "I need a booklet on Radon" or "I need a pamphlet on AIDS", can you respond—or do you need a specific title?

Answer. The vast majority of all requests received from the public for publications come to our Pueblo distribution facility through the mail. We are not staffed to handle significant quantities of telephone orders. If we receive a request for information and the individual does not have a specific title, we make every effort to ensure that they receive the information or (in the case of sales publications) are told how to procure the information they need.

SUBCOMMITTEE RECESS

Senator MIKULSKI. The subcommittee will now stand in recess until Monday, April 3, when it will receive testimony from the National Science Foundation and hear how American universities want to do research.

[Whereupon, at 11:40 a.m. Thursday, March 16, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

VA, HUD, AND INDEPENDENT AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1990

MONDAY, APRIL 10, 1989

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 1:37 p.m. in room SD–138, Dirksen Senate Office Building, Hon. Barbara A. Mikulski (chairman) presiding.

Present: Senators Mikulski and Kerrey.

ENVIRONMENTAL PROTECTION AGENCY

STATEMENT OF WILLIAM K. REILLY, ADMINISTRATOR

OPENING REMARKS OF SENATOR MIKULSKI

Senator MIKULSKI. Good afternoon, everybody. The subcommittee will now come to order.

The subcommittee will consider the fiscal year 1990 budget request for the Environmental Protection Agency. EPA's mission, to protect our Nation's, and even our planet's, environment, has grown enormously since it was established in 1970 under President Nixon.

President Bush has promised the country that he has a profound commitment to preserving our natural resources, and, to that end, appointed Mr. William Reilly to be Administrator, well known for his own work on the environment and also in building the coalitions necessary to achieve solutions.

BUDGET REQUEST

The budget of $4.9 billion that the President submitted for EPA is, however, actually a decrease of 5 percent, or about $272 million, below the level appropriated for the Agency in fiscal 1989. This budget request reflects a $750 million, or a 33-percent decrease, in the budget for sewage treatment construction grants.

We consider this proposal a serious step backward in the fight for environmental protection and intend to work to restore this reduction in our fiscal 1990 bill.

The President would provide, however, an increase for the Superfund Program, a 23-percent increase, bringing its budget to $1.75 billion. The Superfund Program has been widely criticized for being mismanaged and overly bureaucratic. We will look forward

to the testimony and information in that area, and we intend to look closely at the request for a $325 million increase.

The Agency's operating budget would total $1.8 billion, a modest increase of 5 percent over current funding levels.

Absent from the President's request is funding for the Asbestos Loan and Grants Program. EPA's own estimates show there is a need for assistance in this area.

Finally, we intend to discuss the protection of our waterways. Whether we are talking about Prince William Sound or the Chesapeake Bay, we have a great interest in what really constitutes our national heritages or our national treasures.

The coast of Alaska, as well as the Chesapeake Bay and other important estuaries, really belong to the common heritage of the country and, therefore, need to be protected. And we'll be looking forward to your testimony in that area.

Mr. Reilly, we're delighted to see you today, and we'll look forward to hearing your testimony and working with you to really make sure that the Environmental Protection Agency does protect the environment and does provide a measure of safety.

We'll ask you to go ahead with your testimony, and then we'll turn to questions.

I'd also like to introduce, before you begin, joining me today for this hearing is Senator Bob Kerrey from Nebraska, a most active questioner and participant in this subcommittee. And I'm sure others will be joining us.

Mr. Reilly.

PREPARED STATEMENT

Mr. REILLY. Thank you, Madam Chair.

With your permission, I would ask that my formal statement be submitted for the record.

Senator MIKULSKI. Without objection, so ordered.

[The statement follows:]

STATEMENT OF WILLIAM K. REILLY

Madam Chair and members of the subcommittee: I want to thank the members of the subcommittee for the opportunity to present the President's 1990 budget request for the Environmental Protection Agency (EPA). While my brief tenure at EPA has not given me the opportunity to become intimate with the details of this request, I think that I can best serve the subcommittee today by discussing my vision of EPA within the context of the proposed 1990 budget. I will gladly respond to your specific questions following my statement.

This budget request is intended to provide the resources necessary to fulfill EPA's statutory responsibilities, preserve stability in our existing programs, and provide the increases essential to meet emerging environmental challenges. In fulfilling EPA's responsibilities I will emphasize, in concert with the President's initiatives, four long-term strategies that I have established for EPA.

First, controlling pollution is not enough. Pollution must be prevented from occurring in the first place. Whether it's air pollution we can never seem to get rid of, garbage we can no longer find places to bury, or needles that wash up on our beaches, there's simply too much waste and no fully satisfactory place for it to go. We must find alternatives, by looking at the full range of options—from stronger incentives for minimizing generation of hazardous wastes at the manufacturing source, to greatly expanded recycling programs.

Second, solving our most complex environmental problems will require international leadership. Climate change, acid rain, and ozone depletion transcend national boundaries—as do the needs for sustainable development and oceans protection. No single country can solve these problems, but America must take the lead.

Third, we must vigorously renew our commitment to maintaining our ecological heritage and preserving our natural resources. EPA's mission is the protection of public health. Of equal importance in the mandate, though, is responsibility for improving the condition of our natural Earth. We need to follow up on recommendations for the preservation of wetlands; the marine and coastal program deserves greater emphasis; and we are going to invest more heavily in ecological research.

Fourth, getting environmental results means better enhanced enforcement, and greater public participation. There is so much to do and never enough time, people, or money to do it all. We must get smarter about setting priorities among the many demands, and measuring our progress. We must strengthen management. We must give strong enforcement the highest priority. We must find ways to speed cleanups in RCRA and Superfund. We must emphasize the commitment to human resources and career opportunities for EPA staff.

At the same time, we should be sharing more actively with the public scientific and economic data on the environment. We should ask citizens groups, the States, and the private sector to participate more fully with us in making management judgments based on that information. Only through this kind of involvement will our actions earn public trust.

EPA's efforts in 1990 will take as their starting point the seven major environmental goals outlined by the President in his February budget announcement. EPA is committed to fulfilling these goals in 1990. I would like to provide my comments on those goals, and suggest the general lines of my own long-term operating strategy.

STRENGTHENING OUR COMMITMENT TO CLEANER AIR

This administration will propose legislation for reauthorization of the Clean Air Act. We will pursue progress toward meeting air quality standards in our major cities and reducing sulfur dioxide (SO_2) and nitrogen oxide (NO_x) emissions. New legislation must emphasize ways of promoting a partnership between EPA and the States to help States and local governments achieve clean air goals.

I am committed to continuing and expanding the leadership role of the United States in protecting our global environment. EPA will explore international agreements that address the issue of ozone depletion and we will explore other measures to provide insurance against the potential consequences of global climate change.

SPEEDING HAZARDOUS WASTE CLEANUP

I will do my utmost to speed up the Superfund Program, moving ahead forcefully with cleanups and cracking down hard on those responsible for improper or illegal hazardous waste practices. I will make full use of the enforcement authorities provided by law. EPA will use its judicial enforcement powers to collect damages from polluters unwilling to clean up their wastes. EPA will aggressively pursue cost recovery cases, letting polluters know that they must pay their fair share and will not benefit by delay tactics. The climate of sure and vigorous enforcement should create a strong incentive on the part of those responsible for hazardous waste liabilities to settle. Ultimately, voluntary settlements are the most efficient, least costly, and quickest solution.

I will utilize our emergency cleanup authority to address quickly serious threats to human health and the environment. And I will look for ways to cut the length of time spent in planning cleanups.

We also are concerned with expediting the cleanup of our nuclear weapons facilities to meet or exceed all relevant environmental standards. We will work closely with the Department of Energy to ensure, as the President pledged, that environmental standards are met and maintained.

FIGHTING OCEAN POLLUTION

This past summer witnessed an appalling assault against our oceans and beaches. Americans and people around the world were revolted by the medical waste found on the beaches. President Bush has said we are now moving into an era of coastal awareness. You will continue to hear these two words—coastal awareness—from the administration and EPA until we can recapture the beauty and safety of those waters and shorelines that are the source of so much delight to our families. EPA will pursue criminal enforcement actions against illegal dumpers of medical wastes, and issue major fines against ocean discharge permit violators. There will be no ocean dumping permits issued for new sources of sewage sludge or industrial waste. After December 31, 1991, no dumping of ocean waste will be permitted and any con-

tinued dumping will be subject to major penalties. I am committed to halting ocean pollution.

PRESERVING OUR WETLANDS

Our guiding principle in working to preserve wetlands in 1990 and beyond will be the goal of no-net-loss of wetlands. This goal will be one of the major undertakings of a wetlands interagency task force that the President will establish under the Domestic Policy Council. EPA will work to achieve this goal by vigorously implementing its responsibilities for the wetlands program under section 404 of the Clean Water Act. We will also direct additional resources toward helping States assume responsibility for managing the 404 program.

ENHANCING WATER QUALITY

In 1990, EPA will join with the Departments of Agriculture, Commerce, and Interior for the coordination of Federal/State water quality programs. Our role will be to work more closely with State and Federal agriculture agencies to promote stewardship of natural systems affected by farming. We will, of course, continue our strong water quality programs that set water quality standards, monitor and assess water quality, establish municipal and industrial permit limits, and vigorously enforce the requirements of the Clean Water Act. In implementing these programs, we will continue to work cooperatively with the States.

REDUCING THE GROWING VOLUME OF WASTE

The United States has more waste per capita than any other country in the world. By the mid-1990's one-half of our municipal landfills will be filled. EPA has the responsibility to develop a strategy for a national data base on effective application of waste reduction and recycling techniques. Industry, States, and local governments will have access to this information through a national clearinghouse. We have recently established a pollution prevention office which is working to coordinate agency regulatory and research activities to reduce wastes, assist States and localities through grants and technical assistance, and develop a national information clearinghouse. With the States as our partners, we will enforce lab and regulations restricting land disposal of waste through increased compliance inspections.

The costs of getting rid of waste have gone up sharply. They will continue to do so. This, along with the closing of filled-up dumps, will foster innovation and a search for new technologies and new biodegradable products. Through vigorous enforcement actions producers will endeavor to reduce their disposal costs by reducing the volume of wastes and by choosing more advanced waste treatment and disposal methods.

FOSTERING INTERNATIONAL COOPERATION ON THE ENVIRONMENT

EPA must play a role of leadership in ensuring that our domestic activities honor our international agreements. We will also identify and advocate new initiatives as needed. Our understanding of the Earth's ecological processes is still in an infant stage. We must perform considerable research before we can begin to make reliable predictions of global climate change. Even so, we need to explore appropriate actions that could provide insurance against the most potentially adverse consequences of global climate change. Climate change, acid rain, and ozone depletion transcend national boundaries—as do the needs for sustainable economic development and protection of the oceans. No single country can solve these problems. But America can take the lead. EPA will address these issues and assist the President as he convenes a high level international conference on the environment.

BUDGET HIGHLIGHTS

The President's 1990 budget request is intended to support steady, tangible environmental progress. The request for EPA totals approximately $4.9 billion. This funding provides EPA operating programs with $1.8 billion, an increase of 5 percent over 1989. I believe this increase is significant in light of difficult decisions that must be made when considering the overall demands on the Federal budget. This increase also acknowledges the fact that despite the limited capacity to fund new initiatives, the administration acknowledges the American people's support for strong environmental programs. The President's budget request for our operating programs represents an important investment, an investment essential for protecting the environment.

The Superfund and leaking underground storage tank programs total $1.85 billion, an increase of 13 percent over 1989. Our request for the Superfund Program represents a major commitment by the administration to enable EPA to meet its responsibility to safeguard the environment from uncontrolled releases of hazardous substances. The Superfund request totals $1.75 billion in 1990. As with previous EPA requests, we are again directing a significant portion of our resources to site response. When other Federal agency resources are included, approximately $1.4 billion, 80 percent of the total request, is directed to site response. Our primary emphasis in this program will help meet the remedial action schedule mandated by the Superfund amendments and Reauthorization Act (SARA).

In 1990, we will continue to pursue an aggressive enforcement program. Our request includes resources to refer 83 cases for litigation to the Department of Justice and to develop 80 cost recovery cases. This represents a ten percent increase in case referrals and an eighteen percent increase in cost recovery cases. We anticipate 68 new interagency agreements with other Federal agencies for remedial response at sites owned or operated by those agencies. As you might know, I am undertaking a 90 day review of the Superfund Program to identify ways we might improve the cleanup process.

Our request for the leaking underground storage tank (LUST) Program totals $100 million. Resources for State cooperative agreements increase $47.6 million for a total of $90.1 million in 1990. The resources contained in our request will allow States to increase dramatically their ability to address individual threats from leaking underground storage tanks. We will continue to work with the States to encourage development of strong independent State LUST programs.

The construction grants program totals $1.2 billion, with two-thirds, $800 million, earmarked for State revolving funds (SRF), and the balance of $400 million for construction grants. This request continues the $12 billion plan to phase-out the Federal construction grants program. The overall funding level provides the Federal resources needed to meet the highest priority facility needs and capitalize State revolving funds. By expanding the capital in the SRF, leveraging can enable States to provide assistance for a far greater amount of their remaining facility needs.

I would also like to highlight other specific increases in the EPA programs. Our request includes $422.0 million for research and development, an increase of $34.0 million over 1989. This increase focuses on improving our long-term research capabilities because it is increasingly obvious that EPA must be capable of addressing long-term environmental concerns before they become problems. We need to take action now to ensure that good science is available to support future environmental decisions.

Many of the initiatives I am discussing focus on our desire to assist State and local governments in developing their statutorily mandated environmental programs. The role of State and local governments in environmental protection has increased significantly; therefore, we are requesting an increase of $26 million in State grants to assist States in carrying out these activities. The role of State and local governments has increased in response to the expectation of the public and Congress for new environmental programs. These expectations must be tempered by the limited ability of all parties to fund viable environmental programs in the coming decade. We must work with all parties to enhance the role of the private sector and to identify alternative means to meet environmental needs.

In addition to the increases in the operating programs, Superfund, leaking underground storage tank program, research and development, and States grants, I would like to emphasize other important increases in EPA programs. These include significant increases in our radon, ozone, global warming, stratospheric ozone depletion (CFC), hazardous waste, water quality grants, and pesticides programs. Our request also includes numerous initiatives addressing pesticide contamination in groundwater, and emphasizes a cross-media approach to this complex problem.

CONCLUDING COMMENTS

Meeting the objectives I have outlined today will be a significant challenge for EPA. Many of the problems facing EPA cross a variety of program disciplines and require innovative and flexible solutions. During my administration I want to advance EPA's capabilities to address these crosscutting environmental issues.

I would also like to enlist the support of the Congress to work with the administration to devise creative, realistic, and cost-effective solutions to our most critical environmental problems. Can we begin to build a new consensus on how best to solve our environmental problems? Can we avoid the costly delays brought on by a polarized environmental debate? Can we find some core agreement on ends and

means? I look forward to working with the members of this committee on environmental issues and I welcome your valuable counsel and insights.

Madam Chair, I will do my best to answer any questions you and other members of the subcommittee may have. Thank you.

ALASKA OIL SPILL

Mr. REILLY. As we have discussed, I might begin by providing a summary of where we stand with respect to the spill in Prince William Sound in Alaska, the worst oil spill in the history of the United States, and bring you up to date on information that is current up to an hour ago.

To do that I'm going to call on the services of a chart that we have prepared, a map, showing the precise extent of the spill and indicating some of the harder hit areas in the Sound.

Senator MIKULSKI. Do we have an easel?

Mr. REILLY. We don't seem to have an easel, but we can proceed for the moment without one and illustrate some of these points, I think.

Well, before we turn to the map, let me just start without it for the moment.

The oil slick itself now stretches to Gore Point. That is just off this chart.

Senator MIKULSKI. Could you, if you would, give us a navigational chart for the map. Could you show us where the *Valdez* ran aground?

Mr. REILLY. This is the city of Valdez here at the very top of Prince William Sound. The Alyeska oil terminal from which the tanker, *Exxon Valdez,* was loaded is right here. The tanker proceeded out to Port Valdez, down here, through the narrower part of the sound, and, as it was coming into the wide opening here of the sound, veered sharply to port and foundered on Bligh Reef. This is Bligh Island; just off it is Bligh Reef.

You cannot see it from there, but this map is detailed enough to show that this is a very rich habitat of fish, sea otters, and other marine species.

The spill then moved south-southwest very rapidly. As you know, the President sent Secretary Skinner, Secretary of Transportation, Commandant Yost of the Coast Guard, and me to Alaska. And during the 28 or so hours that we were there the spill moved approximately 40 miles.

The spill moved sharply down in this direction, hitting these islands here very hard—Naked Island particularly, Eleanor Island, coating them completely—surrounding these entire islands with very thick, heavy coats of oil. The coast there continues to bear substantial amounts of oil at this time.

Incidentally, the tanker has itself been moved to Naked Island and is now being examined for damage and prepared for a movement to a permanent repair facility in the south.

Farther down, this is Knight Island. All of the north shores of Knight Island have been heavily coated with oil, as has the north coast here of the mainland.

There are two critical priorities in addressing the spill at the beginning. One was offloading the tanker of the 40 million or so gallons that still were onboard. That was conducted successfully.

The second was to try to ensure that the major fishing hatcheries were protected, were contained, and were sealed off from the impacts of the spill. And there are several of them. There is one here, Ester Island. There's another one here at Main Bay. That was particularly at risk, as you see from the oil just outside it. There is another one down here, the Kerning salmon hatchery, and there's one in San Juan.

At this time there is some fear that the containment booms—and these are all double and even triple contained—could be leaking. Skimmers are inside the areas where the threat occurs, soaking up the oil should it come in.

Absent a significant change in weather, a movement of wind, however, most of these hatcheries look reasonably secure at this time from that impact.

The status of the effort: There was very little activity yesterday due to very strong winds from the east that could have driven more oil onto the beaches. It was morning and the first overflight was just beginning when we put this information together 1½ hours ago.

There are reports that a dead whale has been found. There is no confirmation of that at this time. We're not sure if it is a whale that had already been seen or an additional whale, a gray whale. The Fish and Wildlife Service will conduct an autopsy on it.

There are now 44 skimmers and 5 vacuum trucks in operation. That's up from 25 skimmers and 1 vacuum truck late last week. There is a meeting today with Exxon to discuss the possible further use of dispersants in the Gulf of Alaska.

In the sound itself—and I should point out now that the spill has covered more than 1,000 square miles. This is a very large piece of real estate, an extremely substantial area of water. It is several hundred miles now down here. And the concentrations are the heaviest where you see them, but they're evident in long tongues, long fingers of oil reaching down through this Montague Strait and the Gulf of Alaska at this time.

STATUS OF WILDLIFE IN RELATION TO SPILL

The Alaska Department of Fisheries and Game reports that they have received no confirmed reports of herring mortality. As you know, the State has closed the herring season this year due to the impact of the oil. That industry for this season is completely lost.

The Department of the Interior reports that 10,000 otters and 94,000 birds are in the sound at this time, with 25 percent of the otters at risk and 50 percent of the birds at risk from the oil at this time. That is the estimate we have. Within the next month or so more than 250,000 birds are expected to arrive in the sound.

Wildlife rehabilitation centers have received 99 live otters and 208 live birds. Of those, 35 otters and 69 birds have died. Exxon is about to open an otter-cleaning facility in Seward.

CONTAINMENT OF SPILL

Senator MIKULSKI. I think, Mr. Reilly, in getting a briefing we were interested in the containment and the broader impact rather than——

Mr. REILLY. I think we can dispense with the chart.

I think the significant event that has occurred in the last couple of days has been an issuance by the State of Alaska of an emergency order to Alyeska Pipeline Service that's going to require a complete inventory of all oil spill equipment required by the existing contingency plan to be onsite and in working order by April 10.

They are also going to require the best available technology adequate to respond to a spill of up to 10 million gallons anywhere in Prince William Sound within 2 hours. And that is to be required by May 15, 1989. The order provides a detailed list of equipment and specifications.

There are a number of other requirements that they will demand: A licensed pilot to be on the bridge of all outbound tankers and so forth. I think that that, however, along with the reestablishment of a 12-member plus supervisors round the clock spill response crew obviously should go a long way toward preparing for an eventuality of this sort in the future.

ROLE OF EPA CONCERNING SPILL

Let me just say a bit about the role of the Environmental Protection Agency in this effort.

We currently have a half dozen people on the scene there functioning with the regional response team. We're providing a variety of backup services to the State in damage assessment, in advice on deployment of booms and beach cleanup operations, and things of that sort. We were directed on Friday by the President to assume responsibility for the long-term recovery and restoration of Prince William Sound.

To undertake that effort we are planning to put together an Alaska recovery task force, including scientists with oil spill backgrounds, with expertise in aspects of Arctic operations, and with the relevant wildlife expertise. Six to eight such individuals we're looking for at this time. They will be joined by government people representing both the State and the Federal Government agencies there.

We're also going to consider establishing a public advisory committee with legislative representatives and fishermen, State representatives, and conservationists to advise on that effort.

There are a number of assessments and responses underway. Perhaps the most significant is the NOAA long-term assessment which is already underway at this time. That is to be a 3-year effort. Our judgment is the recovery cannot await the conclusion of that, so we will draw on whatever preliminary data that we have and hope to get our plans underway just as soon as we can.

I don't know how much more we need to go into detail on this.

Senator MIKULSKI. I think, Mr. Reilly, we'll go into that more when we ask our questions.

Mr. REILLY. All right.

Senator MIKULSKI. I know Senator Kerrey will as well.

Why don't you now go back to your testimony because, really, neither you nor we want to develop our policy by lurching from one crisis to another.

STATEMENT SUMMARIZED

Mr. REILLY. I appreciate the opportunity to present the President's 1990 budget request for EPA. The budget I'm presenting is intended to preserve the stability of our existing programs and provide increases essential to meet some emerging environmental challenges.

MAJOR INITIATIVES OF EPA

I should point out that the President's near-term plans for EPA emphasize seven major initiatives: Strengthening our commitment to cleaner air, speeding up the hazardous waste cleanup effort, fighting ocean pollution, preserving our wetlands, enhancing water quality, reducing the growing volume of waste, and, finally, fostering international cooperation.

BUDGET REQUESTS

In my statement I detail some of what is involved in each of those areas, and I won't do it again at this time.

Some of the highlights from the budget: Our request reflects the continued expansion of our operating, Superfund and leaking underground storage tank programs. In this very difficult period, from the point of view of the kinds of fiscal constraints that we together face, the concern for core strength is one that I would like particularly to emphasize with this subcommittee.

The well-being and continued capacity of EPA is absolutely vital, and it is the purpose of the increase that's proposed in the operating funds of $94 million, roughly 5 percent. The trust fund programs will realize an increase of 13 percent, or about $220 million.

The increases in 1990 should be understood as enhancing particularly this core support increase, the stability of our integral operations.

As you pointed out, these totals do not account for the dollars needed to implement the eight new pieces of legislation recently enacted. We are in conversation with the Office of Management and Budget about just how to do that. I think funding is provided for a portion of one of those programs, the State grant component of the Radon Program.

CONSTRAINTS ON EPA'S OPERATING BUDGET

With the constraints on our operating budget, and particularly the "Salaries and expenses" account, it's frustrating to see EPA criticized for missing deadlines or for being slow to assess new chemicals or to get regulations out. I think the Agency is an extremely professional, talented, skilled group of people. We work at the intersection of science and public policy, of economic development and environmental protection. And one has to acknowledge, I think, in looking at some of our programs, that they're held together with baling wire.

We are frequently placed in a position where we don't have the travel funds to allow people to go out and inspect and conduct enforcement and permit reviews. Over the last several years we've lapsed several hundred work-years because we didn't have ade-

quate funds to pay for our existing work force. It's difficult to replace people at the rate we lose them.

We have to maintain sophisticated data bases. Our enterprise involves great reliance on data, scientific equipment, things of that sort. All of these are essential to the operation of the Agency. They're not terribly visible; they're not perhaps terribly popular. But I think as far as any one aspect of the budget is concerned this year, that is the one that I'd like to put my emphasis on.

CONSTRUCTION GRANT REQUEST

The construction grant request, as you mentioned, totals $1.2 billion. Two-thirds of the 1990 request, $800 million, is for the State revolving fund program. The final $400 million is requested for construction grants in 1990, to be directed to the States' highest priority projects, or used, if they wish, for the State revolving fund.

The administration is committed to a $12 billion phase-out of the Construction Grants Program, and to some I think this probably looks like offloading responsibility from the Federal Government without adequate resources to carry it. This is what I heard at the National Governors' Association meeting a couple of weeks ago. I can only say, as I did there, that EPA often feels much in the same position with new legislative responsibilities and resources that often are inadequate to address them.

I think we're all in this together; the Federal Government has provided substantial funds over the years, nearly $50 billion, for construction grants. And as much as we recognize the need in this area—and we have recently published a needs review showing some $83.5 billion in the next several years needed for wastewater treatment improvements—we don't believe that this budget can be made to bear the kind of costs that would be necessary to make a real difference with respect to construction grants.

ENFORCEMENT PROGRAMS

Our enforcement programs will continue to receive substantial support. This budget request continues a trend that has seen a 92-percent increase in EPA enforcement programs over the last 6 years. I think that vigorous and effective enforcement is at the heart of our regulatory activity. It ensures the integrity of much of what we do and will provide an incentive on the part of parties I think over time to settle as well.

This request significantly expands our Superfund enforcement programs. I think that's enough about Superfund and enforcement.

RESEARCH AND DEVELOPMENT

The proposed budget contemplates new investments in R&D emphasizing long-term scientific capabilities. As you know, this was the major thrust of the SAB report that was completed last year. The increase of $28 million will strengthen the Agency's long-term research capabilities to address emerging environmental problems, including those such as global climate change.

STATE GRANT PROGRAMS

The requested increases in our State grant programs continue the commitment to build the capacity of States and localities to address environmental issues. Our partnership with States is an important component of our environmental programs.

I think that some of the best ideas over the years for the environment have come out of the States, whether with respect to coastal zone management or ground water protection or wetlands conservation or air quality. We all want to continue to recognize the key role that States as partners in our programs have and must continue to play by requesting a $26 million increase in our State grants.

LEAKING UNDERGROUND STORAGE TANK PROGRAM

The 1990 request substantially accelerates the Leaking Underground Storage Tank Program. The budget request provides the resources needed to meet our goal of assuring timely responses to threats from leaking underground petroleum tanks. Our strategy is to encourage the development of comprehensive and permanent programs in all the States and territories.

Funding for State cooperative agreements more than doubles, from $42.5 million in 1989 to $90.1 million in 1990.

90-DAY REVIEW OF SUPERFUND PROGRAM

The Superfund itself, apart from enforcement, is one to which we have given a high and early priority. Currently I have underway a 90-day management review that is to conclude its work by late May. It has already consulted with a wide variety of interests and individuals. It began by looking at the 27 or 28 or so reports that have been issued with respect to Superfund.

I will only say that I will do my best to speed up this program, moving forcefully with cleanups, cracking down hard on those responsible for improper or illegal hazardous waste practices.

Approximately $1.7 billion in revenues will be available for use in 1991. That does not assume general revenues or borrowing against future receipts. Of the $8.5 billion authorized for this program overall, $5.7 billion will have been appropriated through 1990, assuming that this $1.75 billion request the President has made for 1990.

PROBLEMS FACING EPA

Finally, let me say that many of the problems that face the Environmental Protection Agency are cross-cutting problems, involving a variety of programs and disciplines. And I would very much like to enhance these so-called cross-media capabilities during my administration. I think that there are a number of enterprises underway at the Agency that are intended to do this, and we can get into them with time. But to do that as well as accomplish the other goals that are set out in the statement I have submitted, we are very much going to have to rely on the cooperation of the Congress so that we can work together to identify creative ways to make inadequate funding go farther.

I think in the environment, as in so many areas of public policy, our expectations exceed our resources. We have to think smarter. Perhaps a year from now I would be able to come back and suggest how some of the priorities that the Agency now must respect perhaps should move into second- or third-tier positions relative to some of the really significant priorities that we're forced to identify and be selective about because of the current budgetary realities. If we do that, obviously we would expect to work very closely with you and the members of the committee, and all with an eye toward making these moneys go farther more effectively.

Thank you, Madam Chair.

Senator MIKULSKI. Thank you, Mr. Reilly, for a pretty thorough testimony.

We're going to go back and forth here. I expect some of the other Senators will be coming in.

OVERALL EPA BUDGET REQUEST

My first question goes to the overall budget request of EPA for fiscal year 1990. As we said, you've come in to ask for $4.9 billion. What was your request to OMB and what then was trimmed down by OMB?

Mr. GRIZZLE. Madam Chair, we'll be glad to provide the exact figure for the record of the OMB request.

Senator MIKULSKI. But what was it roughly? Did you ask for $10 billion, did you ask for $7.5 billion? Did you ask for $5.1 billion? I want just generally.

Mr. REILLY. I looked at that last night, that very number, Madam Chair. I anticipated your question but don't have it handy at the moment.

Wait, yes, I do—no, that's only part of it.

Senator MIKULSKI. Did OMB cut you substantially?

Mr. REILLY. It's about 50 percent more, I think, than we have here: between $7 and $8 billion.

Senator MIKULSKI. So you asked for between $7 and $8 billion to perform your statutory requirements, as well as the many new statutory requirements that have been placed upon you. Essentially you've taken existing legislation and responded to some additional crises. So there's been a whole new set of congressional initiatives that you have; is that correct?

Mr. REILLY. That's correct.

PROGRAM REDUCTIONS

Senator MIKULSKI. And of that $7 or $8 billion— and we'll just call it $7.5 billion here—if you had the funds that you originally suggested how would that differ—what would be the program? Where did you have to shave the programs to bring it in at $4.9 billion?

Mr. REILLY. I don't recall exactly what the requests were.

I can say that what I have the sense they should have been and ought to be in terms of meeting some of the priorities that we have. I think that over time, based on the experience that I've seen in just the couple of months I've been at EPA, our core activities need significant shoring up. We did pretty well, certainly in the

eyes of my predecessor quite well, to get this increase that I mentioned of $90-some million for core support. But that is one area where more resources obviously are needed, and I think would pay off visibly and quickly.

The second is in clean air, in meeting the goals that the President has set for a major legislative initiative this year, and then following through on it. We can expect some additional costs. The timing, obviously, of any enactment and new responsibilities we may have will be important to that. But that's the second.

Some of the other initiatives having to do with wetlands conservation and the protection of beaches against medical waste are two relatively high priorities of the administration, but, unfortunately, financially we cannot at this time claim that large amounts of money are going to those efforts.

The construction grants area is one that we've discussed, and that offers needs that dwarf this budget. In fact, the level of construction grants in a single year in the 1970's often exceeded the total budget of the Agency at that time.

I would like to see a significant effort go into, what I have categorized as—or what we call in the Agency—pollution prevention. We are planning to set aside extramural funding within the Agency to try to enhance the priority for pollution prevention. And this is going to be a major priority of the Agency and of the administration. It, as I recall, is something like $11 million that is the total amount of the set-aside, and, obviously, relative to the size of the problem, that's not very much.

Those are the items that occur to me immediately. I believe we had some additional funds in research and development, and probably the people sitting down——

Senator MIKULSKI. Mr. Reilly, this isn't a quiz in the sense that we're testing your recall. But we really do need it for the record.

EPA reports to well over 80 different subcommittees in the Congress. It is here in Appropriations that we're your one-stop shop.

My concern is that policy and resources aren't always matched up. We need an estimate of what the good intentions translated into policy will actually cost. I think it's time for some good solid realism. And also I happen to think that policy should be based on environmental need and not what made the headline on "60 Minutes" or whatever, though that could also be a compelling national need.

REQUEST TO OMB

Therefore, what we're going to ask for the record is EPA's OMB request. We understand that request was made under Mr. Thomas, a very able Administrator.

[The information follows:]

OMB VERSUS PRESIDENT'S REQUEST—FISCAL YEAR 1990

[Dollars in millions]

	OMB request	President's budget	Change (+/−)
Air	$321.8	$295.5	($26.3)
Water quality	372.9	307.9	(65.0)
Drinking water	145.1	119.0	(26.1)
Hazardous waste	291.4	273.7	(17.7)
Pesticides	171.3	110.2	(61.1)
Radiation	32.0	31.8	(.2)
Interdisciplinary	235.7	118.5	(117.2)
Toxic substances	129.0	107.2	(21.8)
Energy	38.7	38.2	(.5)
Management and support	455.8	423.0	(32.8)
Buildings and facilities	50.3	8.0	(42.3)
Subtotal, operating programs	2,244.0	1,833.0	(411.0)
Construction grants	1,918.0	1,200.0	(718.0)
LUST Trust Fund	133.4	100.0	(33.4)
Hazardous Substance Response Trust Fund	2,301.3	1,750.0	(551.3)
Total, EPA	6,596,7	4,883.0	(1,713.7)

EPA BUDGET PRIORITIES

We also recognize that this year you've got your Agency under pretty rigorous review. And what we're essentially looking for is EPA's must-do list—what you consider essential, what the President considers essential.

Having served on an authorizing committee called Energy and Commerce, of which I was on two subcommittees that dealt just with EPA, I understand that you're spread out over the compass.

Mr. REILLY. I appreciate your perspective, Senator.

As I mentioned in the Environment and Public Works Committee, I learned a good deal from our conversation prior to my confirmation about the 302(b) allocation and the constraint that all of us, including members of authorizing committees, are under. And it really underscored for me the extent to which we're all in it together. And the pie is finite and we've got to be very careful about making sure that the small piece of it that is ours is well used.

I have the figures that you were just asking for now. The total request to OMB for fiscal year 1990 was $6.6 billion. We asked for $2.5 billion in the trust fund accounts. That would provide a 47-percent increase versus $1.7 billion that we're asking for now. An increase in operating programs of 38 percent, up to $2.2 billion instead of $1.6 billion. An increase in construction grants of 27 percent, $1.9 billion total for that account. It is now proposed for $1.2 billion and was at $1.5 billion in the fiscal year 1989 budget.

So those are the summary numbers. We can provide the more detailed information in the categories as you requested.

Senator MIKULSKI. Well, thank you very much.

GAO MANAGEMENT STUDY

I'd like to go to the GAO management study that was cited for the President in transition documents.

One of the recommendations concerned the need to link resources with priorities, which then goes to what we're asking about today. I would like you to tell me to what extent you think your budget reflects the Agency's foremost environmental priorities, which is what you talked about earlier.

In many instances GAO found that the highest risk areas were not always given the highest priorities in terms of dollars. I wonder if you would like to comment on that, and how you would see linking those in your future budget processes.

Mr. REILLY. I'm going to ask Charles Grizzle, Assistant Administrator for Administration, to comment on that in a minute.

But let me just say that apropos of that and other similar studies that have tried to relate risk to our budgetary resources, I think that that makes great good sense and is a very useful exercise. I think it focuses the attention of the Congress and the Agency and the country on some very important questions. We are concerned about protecting the public health.

But I think alone it can be an insufficient measure of our performance. We obviously have a number of programmatic interests that reflect serious concerns and priorities of the country. We also want, I think, to give a significantly higher priority to protection of some natural resources, natural systems—wetlands, ground water, estuarine resources; the Great Lakes also come to mind—that perhaps would not rank as high on a pure risk-to-health assessment.

So with those in mind, it seems to me it's important to take the risk studies that have been done, look at them, learn from them, perhaps make some changes and adapt to them. But I don't think they can themselves serve to direct our resources on a one-for-one basis; the highest risk gets the most money and so forth on down the list because I think that would leave too many very important activities, very important resources—the Chesapeake Bay, perhaps, is one example—off the list.

Charlie, do you want to amplify on that and talk about the study in particular?

LINKING OF PLANNING AND BUDGETING

Mr. GRIZZLE. Senator, one of the first things that the Administrator did when he arrived at the Agency was direct that we, from our budget perspective, work together more closely with the people in our Policy Planning and Evaluation Office to make sure that we do a better job of linking planning and budgeting in the Agency, and, furthermore, that we look at developing a long-range strategic plan for EPA.

Many of us at the Agency, quite frankly, agree with some of the findings of the GAO report that criticized EPA for not doing a good job of long-range planning, for not managing for environmental results and perhaps not having the best environmental indicators.

We realize that the Agency's budget has very little flexibility in it; that, as the Administrator just said, we often are dealing with legislative mandates or court ordered deadlines. These can drive us to work on or devote resources to efforts that have less risk to the public than many other things that our scientific data would lead us to work on if we had the resource flexibility.

It's a tough issue for us. And we are going to make a sincere effort through this planning and budgeting exercise to do a better job of responding to some of the justifiable criticisms in the GAO report.

Senator MIKULSKI. Senator Kerrey.

Senator KERREY. Madam Chair, I've got a pile of questions here I'd like to submit for answering later.

Senator MIKULSKI. Without objection, so ordered.

PREPARED STATEMENT

Senator KERREY. And I also have a prepared statement that I would also just enter into the record.

[The statement follows:]

STATEMENT OF SENATOR KERREY

Madam Chair, members of the subcommittee, I would like to welcome Mr. William Reilly to his first appearance before our subcommittee. Mr. Reilly, I would like to first commend you on your recent decision to order the Denver regional office of the EPA to undertake a careful reexamination of the potentially serious ecological impacts of the Two Forks project, particularly on the Platte River in Nebraska.

As we approach the twentieth anniversary of Earth Day, an event that was shortly followed by the formation of the Environmental Protection Agency and the passage of a substantial body of legislation reflecting this growing citizen concern for the environment, it is very apparent that we as Americans remain concerned about the threats to our natural heritage and the environment within which we work and live. During the past twenty years much progress has been made, yet much remains to be done. During this Congress I hope we can work with the administration to pass equitable clean air legislation. Yet we face currently many environmental problems.

While solutions exist or hopefully can be developed, such solutions, in the form of safeguards, oversight, and new technologies, will be competing for increasingly scarce public funds. What are our alternatives? Future alternatives will require harnessing market forces in order to coordinate public and private efforts. Further, while the Federal Government has played an important role in the definition of priorities, the events of the past twenty years also point to the limits of Federal action. The successful implementation of comprehensive solutions such as recycling or other strategies that rely on changing our behavior, will only be successful if citizens become involved in community-based efforts to address the problems confronted by their community.

I want to introduce the subcommittee and you, Mr. Reilly, to Nebraska's natural resource districts, an increasingly successful experiment in the community-based natural resource stewardship. In the early 1970's, the Nebraska Legislature divided the state into 24 districts and empowered each district with a range of powers, including limited taxing authority, and outlined a number of responsibilities, including protecting local ground water, overseeing soil and water conservation, protecting instream flow.

The boards, as locally elected governing entities, provide a vehicle for citizen participation in the protection of natural resources. The local board, including its staff, can assist in the implementation and administration of Federal and State programs. In fact, the oversight and inspection required by several State programs, such as our Chemigation Act, would be less feasible without these local boards and their roots in the local community. The boards' staff can play a role in the development of a local strategy for the realization of goals laid out in legislation or regulation. These boards can also undertake their own initiatives. For example, the Central Platte NRD developed and enforced a tough nitrate testing program in order to protect ground water.

These boards can also play a role in, what I believe to be one of the major environmental challenges, pollution prevention. I understand that EPA has recently recognized the importance of this approach and established an Office for Pollution Prevention. These boards can given proper Federal and State guidance become a major actor in solving environmental problems. I believe that given Federal direction these local resource boards or similarly locally-based units have the ability to play an important role in the implementation of a widespread pollution prevention pro-

gram, specifically by initiating a community-based recycling and source reduction program. Our towns and cities are being confronted by a tremendous quantity of solid waste, including hazardous waste.

The success of certain solid waste reduction programs, such as recycling require that citizens are educated and encouraged to adopt new behaviors, I believe that these boards can play a significant role. These local boards, can through demonstration projects, studies, and citizen awareness efforts, can help local communities understand that the long-term protection of their ground water will depend on reducing sources of potential contamination such as local landfills. Without locally-based boards that are viewed as accountable to the local community, it will be difficult to regulate, enforce and solve "from above."

I am not suggesting that there is no role for Federal guidance, especially in the establishment of overall priorities or goals. It is however, important that local communities be granted a degree of flexibility in order to determine the most appropriate strategy or approach within their jurisdiction.

FISCAL YEAR 1990 BUDGET REQUEST

Senator KERREY. It seems to me, Mr. Reilly, that the request that you're making to us, essentially for sympathy, is one that I understand. I mean I've put in requests for budgets before, and I appreciate that.

However, with all due respect, there's almost without exception on serious environmental issues an urgency on either side of the issue that I think is going to press all of us for meeting deadlines. It's going to be there. And I don't think we're going to ever be able to get rid of that.

I mean on the one hand, I've got an individual coming forward wanting to hear the answer, "Yes"; on the other hand, an individual coming forward wanting to hear the answer, "No." And I've had enough experience on the administrative side to know that it's not unusual to have the same individual come in one day wanting a "No" and the next day wanting a "Yes" on essentially the same thing; one day saying, "I've discovered that there's a law that has restricted my freedom,' and the next day coming in saying, "I can't believe that there isn't a law that won't restrict my neighbor from doing something that they regard to be"—I mean that's something that I'm sure that you are used to.

I am curious to know, really, as much as anything, your personal attitude toward these sorts of things. I suspect that based upon your history that if you were putting in this budget it would be substantially larger and probably of a different shape. This is essentially a modified budget. And I don't really want to get into trying to either put you on the spot or entrap you in some way in contradicting your boss.

SENATOR KERREY'S CONCERN WITH WASTE DISPOSAL

I am an individual who lives about 100 days in Omaha, NE, and the balance in Washington. And essentially I handle my garbage the same in both communities. That is to say, I have a trash can and after I'm done with something I put it in there. And somehow at some period during the time when I'm not there it disappears; somebody comes and picks it up and takes it away.

In Omaha I'm required to actually, every now and then, take the little plastic bag out into the garage where it accumulates for 4 or 5 days, and then I take it out to the street and then it disappears. I don't pay a fee for that; it's included in city services.

I am consuming large amounts of energy, I know. I'm consuming as well a large amount of time on the part of other people. I know that even in Omaha I'm contributing to a landfill that at some point is going to have to be shut down and we're going to have to find a new site and another controversy at the local level.

I'd just like to have your opinion of my habits, my personal habits; not the habits of the people of Nebraska or some abstract thing, but your opinion of my habits.

Senator MIKULSKI. Wait a minute. Do you really want him to do this, Senator, in a Senate hearing?

Senator KERREY. Yes; I do. [Laughter.]

Mr. REILLY. Let me first say I don't want to characterize my presentation and the strong claim that I made for support for activities that particularly call for sympathy, but, rather, to leave with you the message that, for heaven's sake, that's the part of the budget that matters to us most.

Senator KERREY. I heard you say almost precisely that it's frustrating to see EPA criticized for missing deadlines. It was that issue I was addressing.

Mr. REILLY. Fair enough.

Senator KERREY. And I'm just urging you in the 4 or 8 years, or however long you stay on the job as EPA Administrator, that I would push that frustration to the side because I think you're going to have to learn to live with it; at least with me, because a lot of the specific questions that I've got reference deadlines that haven't been hit. And you've haven't convinced me that I ought not push you.

Mr. REILLY. I suspect that we're going to have to learn to live with it, and that there is an action-forcing quality to a lot of these deadlines. That is, they are imposed to try to see whether they can enhance the priority we give to a problem, and perhaps speed up our attention to it, even if no one expects that we're going to quite make some of them.

In the area that you mention, I think that we are approaching something in the nature of a crisis, which is not a term that I would use lightly or easily. When we look ahead to I think the next 5 years we expect something like one-third or more of the sanitary landfills in the country to become obsolete. We've seen the price of disposal of garbage go from $5 to $8 to $10 a ton to, in some places, $115, $120, $125 a ton. It's going to continue to move in that direction.

As a consequence of a number of laws, we have placed restrictions on getting rid of the stuff in the water and in landfills and burning under more constrained circumstances. There's no question that we're going to have to learn to change our behavior in some fairly fundamental ways.

The fact is that if you look at other successful industrialized developed countries, major trading partners like the Federal Republic of Germany and Japan and others, they generate significantly less waste, less solid waste, less household waste, less hazardous waste, than we in the United States do.

So while that might be occasion for criticism of our habits—your habits, my habits—I think we can also take some consolation from

the fact that it looks like it's possible to do a lot better without in any way hobbling the economy.

And it strikes me that the parallel in the 1990's that we might draw from the 1970's has to do with the great debate that we saw about whether we could, as a society, reduce our use of energy per unit of GNP without in any way hobbling our economic development. We've done that by about 40 percent, as you know, since 1973. I think we can do the same thing in the field of waste.

It strikes me as I go about the country that the public is very ready to do that. The places where there are systems set up for segregating waste, in the places where priorities have been put on recycling, the public has shown a readiness, even in some places an expectation that this would be done.

EPA IN A LEADERSHIP ROLE

I'd like to see EPA play a role of leadership on that question and help lead the country by making information available, by exchanging data on different communities' and different corporations' experiences; perhaps down the road by taking measures in legislation to foster more recycling, more creation of biodegradable products, more process changes that reduce waste right at the start. I think it's going to be a very important priority for us. It's not just a regulatory issue; it's going to be a major area of communication and public education.

Senator KERREY. With all due respect again, I appreciating you're sitting there thinking,"Jeez, I don't want to get on this guy too hard; maybe he won't approve all my requests," and all that sort of thing. But I'm talking very specifically about me.

I mean here I am earning $89,500, this big hot salary here, and I get to sit in an elevated chair and have people come and ask me for stuff. I mean should I be changing my habits?

Mr. REILLY. Well, I think that you should be trying to ensure in the communities in which you provide your wastes that waste is well managed; that it is segregated, that you have different waste streams and collection possibilities, and that your glass and your paper and your plastics and so forth are adequately disposed of. I think that's the best and first thing that you or any citizen should do at this time.

I recently learned from Governor Branstead that he has introduced legislation in Iowa to require that all plastic sacks and bags be recyclable or biodegradable, I believe, by 1991 or 1992.

Senator KERREY. Assuming that 10 percent of the product is made out of cornstarch. [Laughter.]

Mr. REILLY. Well, yes; I learned that later.

What he was most proud of was that 93 percent of the citizens of Iowa support these measures. And if you look at them, they're fairly ambitious, and the timetables are relatively early. I only learned later that they're to be made with cornstarch. That's kind of, I think, a blending of incentives. It's just the sort of creative adaptation that we're going to need in this field.

Senator KERREY. I put out a press release on it as well, Mr. Reilly. I think it's a good idea.

What I'm suggesting, in fact, is in the Office of Pollution Prevention that you mentioned actually in your testimony, and I'm anxious, in fact, for Region 7 to participate in that and I hope that in fact they will so I will have an opportunity to assist in that because I think what is needed—and I'd appreciate your comment on it—is a call from us to the people. And I think we're going to have to lead from the top down.

I don't think it's going to work for us to simply say—for me to get up on the stump and say, "All of you back in Nebraska are going to have to do an awful lot better job of separation of solid waste; you're going to have to do a better job of conservation of water; you're going to have to do a lot better job of simply assuming that the out-of-sight-out-of-mind is going to work," because we can't, in my judgment at least, go forward with a continuation of the old ethic which essentially said that we didn't have to be concerned about the soil, the water and the air, that it would basically take care of itself. It's obvious it's not taking care of itself.

It's obvious that we are having to come back not only with Superfund, but I've got a stack of questions up here that relate to individual instances where now we're having to come back and pony up tax dollars to take care of a problem that is as a consequence of the wrong attitude.

And what I'm simply saying in your pollution prevention program that I'd like to participate. And I hope that Region 7 has an application in. If not, I'd like to know that. If not, I'd like to know why not because it seems to me that it will take a considerable amount of leadership, despite—it's my belief as well that people are prepared to help. When they have to pay a higher gate fee it seems to me their answer typically is "No."

When you asked me, had you been less than the kind and respectful individual that I understand that you are and had narrowed your eyes and said, "You may be a U.S. Senator but you're wasteful," when it gets to that kind of a statement it seems to me that you're going to need our help. It's going to take more than just me trying to get answers from you on a whole range of questions about why we haven't met deadlines.

Senator MIKULSKI. I think Senator Kerrey, as usual, has made some excellent points. I think there are several issues that his comments lend themselves to:

ETHICS OF ENVIRONMENTAL PROTECTION

First of all, we do not have an ethic in this country for environmental protection. And we don't do anything. There is not an ethic among citizens in terms of their personal behavior. There is not an ethic within the corporate structure automatically oriented to environmental protection or conservation, nor is there within government. It is always either the denial or minimization or the delay of solving problems. And you'll hear this story time and time again.

And you know how avid I am in terms of the bay, the Chesapeake cleanup. I have a little home down by the water next to a public boat ramp. And this guy pulled up in a 16-foot powerboat, left the motor running with the oil dripping over my beach, opened up a beer can, flipped the metal top into the small creek, sat there

and then wanted to know, in the most colorful language, what was I doing about cleaning up the bay.

And I think this goes to what Senator Kerrey was saying, that we are all wasteful. We need to begin to create an ethic of environmental protection.

So I think that's really the point you were trying to make.

ENFORCEMENT BUDGET

Let's now go to the enforcement budget. The people do look to you to protect the people, and I have just one really basic enforcement question:

You stressed enforcement as one of your highest priorities. I know that you stressed a lot of enforcement activity in the Superfund Program. But could you tell us how much of EPA's total budget request is devoted to enforcement activities and if you're satisfied with the strides that you've made in that area?

Mr. REILLY. This is the area that I mentioned, that over the past several years discloses a constant upward trend. It involves $158 million total in 1985, and that's gone—with one exception—up every single year since, to $304 million this year. That's almost a 100-percent increase over the period. It's a 42-percent increase in workyears over that period. That percentage total of our entire budget is under 10 percent. I believe it's about 7½ or 8 percent.

I think that we did well. And I know from my own conversations on this with Lee Thomas, my predecessor, that this was one of the areas that he pointed to where we had significantly strengthened the capacity of the Agency over time. Whether this priority is adequate, I think it's certainly good in the context of the other programs here and the increases—or even lack thereof—that we've been able to propose for them.

We're requesting a total of 3,578 workyears and $304 million in 1990. That's an increase of 103 workyears and $22 million, or 7 percent, from 1989.

Enforcement represents one-fifth of all of our workyears if you exclude Superfund and the leaking underground storage tank programs in the budget that we're now talking about.

I can give you some specifics on where some of these increases go. The Criminal Enforcement Program has requested 15 new investigators. That will bring that to a total of 63 for the program, and that's one-third or so increase, a 36-percent increase for the year.

We want to increase the enforcement for Superfund by some $7 million, 88 workyears, so that the enforcement resources there will be $123 million, roughly one-third of that. The emphasis is going to be on cost recovery, on the development of the cases and the legal preparation, investigations and so forth, and on forcing potentially responsible parties to acknowledge their liabilities for remedial actions.

Most of this, I should say, is going to involve the regions. These resources are highly decentralized and very significant.

Senator MIKULSKI. Essentially what you're saying is that the Agency is placing a greater emphasis on the area of enforcement,

not only the litigation aspects, but really out there in the field showing people that we're then serious about the law; is that right?

Mr. REILLY. Right.

Senator MIKULSKI. Well, of course, we consider that a high priority because without enforcement it's ridiculous to have laws.

Let me tell you the point of my question and the direction, Mr. Reilly.

CONTINGENCY PLANS

First of all, I wonder if contingency plans work, and whether we even have contingency plans in place.

What are we doing in the area of really establishing contingency plans? Do we know they work, and do we test them?

The U.S. military performs 5,000 drills a year in West Germany to make sure that in the event of an invasion of West Germany we're ready. But I'm not so sure we test our own contingency plans here.

Our watchdogs don't bark, whether it's the S&L crisis, whether it's the *Valdez,* whether it's on grapes or apples, or whatever it is. And I'm just wondering what your thoughts are on this.

Mr. REILLY. I think your question is excellent, Senator. I think the nation has just had an object lesson in the unreality of our contingency planning for major disasters, certainly of an oil spill in very sensitive and pristine places. And the likelihood is that the contingency planning for other kinds of disasters is just as defective.

We saw that the contingency plan for the spill in Prince William Sound was wholly inadequate. It did not contemplate a spill of anything like the magnitude that we experienced.

We also discovered that the contingency plan itself was not even honored, was not observed, and that the response was inexcusably late in coming.

The President directed on Friday that EPA undertake the long-term recovery effort that I mentioned in Prince William Sound. He previously directed us to assess the adequacy of oil contingency plans in the lower 48 States in all places where oil is being brought in.

Secretary Skinner and I have an obligation to report back in 30 days on some specific aspects of the spill and what we learned from it and what we need to do in the near-term future in Prince William Sound. We will use that information to inform the broader effort, and, operating through our National Response Team, which is chaired by Jim Makris of EPA, assess the efficiency of our contingency planning for oil spills all across this country.

I have a strong suspicion that we will find things worthy of serious correction. I don't know if you would like to hear from Mr. Mr. Makris about this whole effort.

I, myself, participated in some of those exercises you described in West Germany and can recall the huge effort and the very disruptive consequences that they entailed. But there's no question that we don't have anything like the practice and preparation for these kinds of disasters.

TESTING OF CONTINGENCY PLANS

Senator MIKULSKI. Let me ask you another question. Who triggers an exercise and how is it triggered?

First let's take Prince William Sound. The reason the *Valdez* ran aground on Bligh Reef was not that it was a stormy night and the navigational buoys had gone astray. It was because the captain was not fit for duty. That was No. 1. He was just not fit for duty.

So there is this policy question. What makes someone fit for duty, whether you're running a nuclear powerplant or Amtrak.

And I know that everyone is concerned about people's civil liberties. There is no one who is more concerned about that than I. But the competing right of what to do with your personal behavior runs against another competing right called public safety. And I think that must be taken into consideration.

And I happen to think that the contingency plans, their development, their operation, and their testing, either within agencies themselves or within government, are not a priority.

TRIGGERING CONTINGENCY PLANS

What would you think of essentially random contingency planning that would be triggered by either executive order of the President, or by an inspector general within an agency?

Mr. REILLY. Well, first, I think every place that certainly is bringing in oil has got to have a contingency plan, period.

Second, as far as the testing of those plans is concerned, I think that you're quite right, that they need to be checked against a real world disaster scenario. The degree to which there had grown a complacency in the sound over the years obviously weakened the readiness, caused the response to be flaccid, caused people to be let go, and finally caused the whole effort not to work when finally the contingency plan was needed.

If some kind of random response testing effort could be conducted, whether by the Coast Guard—which has the primary action for something of that sort—or some other agency or entity, I think it makes good sense.

NATIONAL TRANSPORTATION SAFETY BOARD REPORT

Senator MIKULSKI. Well, I'd encourage you to also read the report of the National Transportation Safety Board that's going to come out. They've got some great ideas. We could spend all day just on the contingency plans.

REVIEW OF EPA CONTINGENCY PLANS

While you're looking so thoroughly into the oil spill issues, which are very interesting for those of us who have ports and so on, I would really encourage you to look at your own Superfund contingency plans and perhaps surprise a few people. It doesn't have to be in my State. [Laughter.]

But really, because what would happen, sir, as you know, we then have to do tremendous remedial action. And people like you and me and Senator Kerrey spend as much time managing the fear as we do managing the risk or the effects of the risk.

EVACUATION PLANS

Mr. REILLY. Fair enough.

The only caution I would mention with respect to evacuation plans, I think they often are the weakest element in a response.

I can recall in Germany 20-some years ago when there was a full-scale evacuation, not just of troops in the wake of a supposed Soviet invasion, a test, but also of civilian personnel. When the German population saw mothers and small children getting into cars and trucks with bedding and emergency food supplies and so forth there ensued a panic. And before too long the roads were so clogged that nobody was able to move west.

And the evacuation effort was shown to be wholly unrealistic as a result of that in a real world situation because of the very heavy response that it would entail not just by the military personnel but, of course, by everybody else making transportation impossible.

So there are two lessons learned: One, the evacuation didn't work; but, two, that kind of random test was never conducted again because it proved so disruptive to that population.

I think some balance would have to be struck in terms of testing any real world evacuation plan.

Senator MIKULSKI. I was in West Virginia after the Baltimore accident. I was there with Mr. Waxman. We found out that the plans weren't coordinated. They were as tall as I am if you stacked them up so nobody read them.

And then everybody was going to respond to a whistle. Well, nobody had taken into consideration the deaf population that wouldn't hear the whistle.

There had been no preparation of the people.

Mr. REILLY. I think your basic point is absolutely right.

You may know that one of the incidents that occurred after the Prince William Sound disaster involved people bringing in sea otters to a warehouse, astonishing the warehouse owner who then discovered that his facility had been designated the wildlife rehabilitation center for the area.

That kind of thing doesn't turn up until the event occurs unless somebody subjects it to a real world test, which we simply are going to have to start to do.

Senator MIKULSKI. Senator Kerrey, did you have some more questions?

Senator KERREY. Always.

"VALDEZ" OIL SPILL

Senator MIKULSKI. OK.

Senator KERREY. Mr. Reilly, I would just observe that in addition to other sorts of things that I think will occur as a consequence of the Valdez oil spill, I think there is going to be significantly less credence given to the, "Don't worry, this won't happen" argument from people who want to, in some instances randomly, almost, explore for offshore oil. At least—I mean that's obviously a personal opinion, but I think it has also borne up under the weight of evidence, sort of some retraction of effort to increase exploration.

RESOURCE DISTRICTS IN NEBRASKA

But prior to testimony you and I talked a little bit. I'd like to urge upon you to do as I said, and this is simply to make sure it gets into the record to look at the resource districts that we've set up out in Nebraska to implement tough Federal standards. It's a pretty darn good tool, I think, to have a tough Federal standard at the Federal level, but have the implementation of that standard at the local level. And I know that there's the argument always given and concern, well, this is just going to be a way to do an end run on it.

FEDERAL STANDARDS IN NEBRASKA

But I think if you look at one in particular, the Central Platte NRD in the central part of the State, you'll see extremely tough nitrate standards applied and herbicide and pesticide requirements put in place by the NRD. It's essentially—and I would observe people are doing a pretty good job of regulating themselves better even—to take it back to my original question to you—than I do of myself.

I would also, tying back into my opening question, with all sincerity urge that consideration be given for some top-down recycling and separation programs for Federal officials such as myself. It's going to be awfully difficult for us to, I think, accelerate the attitude change that I believe is going to be required if our practices are sloppy and wasteful—our being specifically ours, who are in a position of responsibility.

I'd like to ask—did you want to comment?

Mr. REILLY. I think when we look at the very serious needs, we have to try to maintain the stability of the planet and gain the cooperation of other countries in doing that, whether phasing CFC's out or doing a number of other things we have to do, one of the first obligations for establishing our own credibility is to lead here at home. And I think that's one of the areas where we simply have not distinguished ourselves.

The Federal Government itself is obviously going to have to set some examples in terms of pollution prevention, whether it's Senators and Representatives or elected officials or, I think more likely, the agencies of the Government in terms of procurement and things of that sort. That clearly has to happen. And I take your point.

HEARING ON TWO FORKS IN NEBRASKA

Senator KERREY. I'd like to know specifically whether or not they intend to have a hearing on Two Forks in Nebraska.

Mr. REILLY. At this time we have no plans to do that, sir; no.

Senator KERREY. What's the likelihood of a hearing being held in any of the downstream locales?

Mr. REILLY. I think we're open to it. I think we could do it. We simply had not planned it.

Senator KERREY. I think it would be useful. I certainly would like to see it. Although it might be more than my heart could stand, I think it would be useful to get the input.

Mr. REILLY. To have it in the State capitol?

Senator KERREY. Anywhere you'd want downstream would be good. Of course, I'd even like to see it be held out on the Platte River if possible.

But anyway, it would accommodate the public's need for access.

Mr. REILLY. Well, we'll do it. That's a good idea.

REDUCTION IN GRANTS FOR WASTEWATER CONSTRUCTION

Senator KERREY. In addition to that—and again I appreciate the comments you made in regard to the reduction of the grants for waste water construction, but it does make it difficult.

I've been working with the State legislature even in my capacity now in the U.S. Senate to try to get them to remove Nebraska as the last holdout against taking over EPA's implementation for FIFRA. We are, as you know, I believe the last State holding out. It makes it difficult because the argument that we're hearing at home is, "Gee, OK, terrific. They want us to take it over. But at some point they'll cut the money off," and I say, "No, don't worry, they won't cut the money off," and then we're going to phase out waste water grants.

I say that again without, you know, wanting you to be put on the spot. But I would appreciate it if you've got any decent arguments that I could use on trying to get Nebraska to come in and implement FIFRA at the local level.

Mr. REILLY. I think I might invite Dr. Moore to comment on that.

Senator KERREY. I mean, the principal argument I'm getting from a number of key senators in the Nebraska Legislature is that, "Gee, the State's going to be stuck with the cost at some point down the road when the feds phase out the money for implementation."

Mr. REILLY. I might ask Dr. Moore to comment on that for you.

Dr. MOORE. Senator, you are correct. Nebraska is the only State that does not have responsibility for FIFRA State implementation.

There is a trend in a number of decisions that have to be made as they relate to pesticide use that I think is correct, that clearly indicates that the decision can best be made closer to where the application is going to occur. This is true in some of the ground water policies that are being developed within the Agency that we have received broad national comment on. It's also true of issues dealing with farmworker safety and endangered species.

I think a State that has an infrastructure in place that's appropriate for administering FIFRA is going to be best positioned to be able to handle these types of policies as they get through the draft stage and into the implementation stage. There clearly has to be some funding along with it to create the infrastructure to make sure that the policy is indeed better served if it's at a local site.

In all candor, you still can't get away from the disconnect there seems to be between the proliferation of federally mandated responsibilities for the State or local sectors and the amount of resources available compared to the resources needed to get the job done right. This is true whether you're talking about FIFRA or any one of a variety of things that EPA has to work out.

Senator KERREY. No unusual or magical commitment that Federal money won't be cut off for the administration of FIFRA. Just tell them that what the Lord giveth, the Lord can taketh away.

I appreciate that we are going to have to make that argument. Fortunately, the legislature is still in session. I'd like to see it done. And I just haven't been able to, with my limited powers of persuasion, get it done.

What do your needs surveys show for wastewater construction in the United States?

Mr. REILLY. I think the figure that I was working with is $83 billion. That number goes up significantly higher than that into the next century. But it seems to me that's the range for approximately 11 or 12 years out.

EXPENDITURES ON WASTEWATER FACILITIES

Senator KERREY. Do you see sort of the bloom having gone off the public concern for our expenditures on wastewater facilities?

Mr. REILLY. Well, I think that the decline in Federal capacity to continue to play the role doesn't reflect a decline in public support for clean water. In fact, all of the polls that I've seen show an astonishingly high level of public support for maintaining or even strengthening clean water legislation that we now have, up in the range of 87, 88, 90 percent of the public supports those views.

I think that the program has, obviously, entered a new phase. And the responsibilities have evolved on State and local governments to a degree that is going to compel them to provide even more—and they've already provided a great deal more proportionally than they have in the past.

The major part—95 percent—of the communities in the country have achieved their secondary treatment standards. So we've made a great deal of progress in this area. But as that number reflects, we haven't by any means completed what we have to do.

SECTION 18 EXEMPTION

Senator KERREY. This one is just specifically for Mr. Kimm.

We've had an application in on a section 18 exemption on a particular herbicide. I can take a yes or a no, but I need one or the other.

The answer that was sent to us indicated that EPA doesn't have the resources to do the evaluation. And section 18, as I understand it, the section 18 exemption basically says, "We do a quick evaluation and we make the exemption or we don't make an exemption." And, as I say, I can take either piece of news back, but this one is kind of right in the middle.

Mr. KIMM. Is this the section 18?

Senator KERREY. Section 18, excuse me.

Mr. KIMM. For?

Senator KERREY. For an herbicide called beacon.

Mr. KIMM. Right.

Beacon is an unregistered pesticide. It's a new pesticide. We tend to be very careful with even emergency uses of chemicals that have not been fully reviewed.

In this particular case we have an animal study that shows some positive cancer results which we will have to assess before we can feel comfortable even with an emergency use. On the basis of that we have notified the State of our intent to turn down that emergency use, and a number of other States that have requested a similar use.

Senator KERREY. The letter that I received is not as clear as you've just given. And I understand exactly what you just said. But in reading the letter I don't come to that conclusion.

Again, I can take either a yes or a no.

Mr. KIMM. The answer that went out Thursday—or the latter part of last week—was just what I said. It was a no. And it was a no for cause.

Part of the problem is that EPA has this massive study at hand that will require several months before we fully understand it.

Senator KERREY. But again, with all due respect, I hear exactly what you're saying right now, but I'm not that lousy a reader. I mean the letter that I would prefer under these kinds of requests to get is simply have you say in the opening paragraph, "Senator, the answer is no. We will not because of reasons cited be able to permit an exemption under section 18."

Mr. KIMM. I believe that's almost verbatim what went out the latter part of last week.

There was a point in time when people were saying, "Well, if you have the studies in question in hand why don't you read them." And we went back and read the summaries of them and, sure enough, there's a positive response in one species.

Senator KERREY. I'll dig the letter out again and take a look at it, but my——

Mr. KIMM. I apologize if the letter I sent——

Senator KERREY. I assure you, had I gotten that message quite that clearly I wouldn't have had additional phone calls and people saying, "Is there any room to try to get this exception made."

Mr. KIMM. It is a big issue in a number of States. And we had a good many people suggesting that we make another calling, but that's the decision we made last week.

Senator MIKULSKI. Will the Senator yield?

I have a few questions, and then I think I explained to Mr. Reilly, I have to leave in about 10 minutes to go to the White House on this drug policy for our region. And Senator Kerrey has some additional questions.

I'd like to ask some questions now on construction grants and on pesticides, and we'll pick up on some other issues tomorrow. But, if I may, I want to come back to construction grants.

LETTERS OF CREDIT

This goes to the issue of letters of credit. After heated debate between States' interest and EPA it was decided to issue letters of credit instead of cash payments to capitalize State revolving funds. They would be used to finance the construction of eligible sewage treatment plants.

What would be the additional cost to the Federal Government if cash payments were made in lieu of these letters of credit?

Mr. REILLY. I'm going to ask Rebecca Hanmer, the Acting Assistant Administrator for Water, to respond to that, Senator.

Ms. HANMER. It would depend on how many States had the SRF program at any point in time whether it would be $1 billion more a year or more than that. I'll be glad to provide you the projections that we did.

[The information follows:]

PROJECTIONS CONCERNING THE SRF PROGRAM

Under the following three scenarios we would have significantly higher cash outlays in the first 2 years with cash payments versus letter of credit. The following three budget scenarios depict the difference for the Federal Government if cash payments were made in lieu of the letters of credit:

Appropriation level	Fiscal year of expenditure—				
	1990	1991	1992	1993	Beyond
Budget ($1.2 billion)	+356	+199	−277	−173	−105
EPA mid-range ($1.9 billion)	+481	+315	−363	270	−163
Authorization ($2.4 billion)	+599	+404	−448	−345	−210

EXCEPTIONS TO THE LETTER OF CREDIT POLICY

Ms. HANMER. I would say that in the last year we have had only one State that has raised an issue such that it wants to come in and take advantage of the offer we made to deal with exceptions to our letter of credit policy, and that is Minnesota.

Senator MIKULSKI. My concern is that these letters of credit may adversely affect the orderly termination of the Federal program. Will the program have to extend beyond fiscal year 1993 because of the size of unmet sewage construction needs, and will that attract support to continue the program?

Could you comment on that?

Ms. HANMER. I don't think that the issue is the letter of credit per se, given the way it works. As soon as loans are ready to be made and funds are obligated, the people who are to get the loans get their money.

I think the issue is more the total amount of money that is used to capitalize the State programs in the first place.

Now the technical staff may correct me—and I'll be glad to provide you an update for the record—but I don't think it's the letter of credit mechanism itself that would raise the question about whether or not we need more money in the program.

The point being, communities which contract with State revolving funds for loan assistance receive cash payments from the revolving fund as construction costs are incurred. The letter of credit mechanism provides immediate payment so that it is not necessary for borrowers to advance moneys expected from SRF loans. Experience in Texas and Georgia, early users of the SRF letter of credit system, is testimony to the effectiveness of the system in providing Federal funds on demand.

Senator MIKULSKI. I'm going to ask my staff director to comment; he understands it in a way so that he could present it more crisply than I could in a question.

Would you care to raise that issue that we've talked about earlier?

Mr. KELLY. Because the States will be able to leverage less money through letters of credit, the question is, will that stretch out the time period that it will take States to raise the sufficient money to meet the $83.5 billion that EPA estimated they need to meet sewage treatment construction needs under the Federal Water Pollution Control Act.

Ms. HANMER. We did a study of that last year.

And the answer is that from the studies we did last year there did not appear to be a very large effect, for example:

EPA has agreed to give the aggressive leveraging exemption to Minnesota. The State will draw cash from the LOC over eight quarters into a debt service reserve account to earn interest that will be used to retire revenue bonds. Bond proceeds will be used to provide assistance to recipients.

Alabama, Missouri, and Colorado are proposing to leverage SRF funds within the constraints of the EPA LOC rules of cash draw. These States plan to draw cash from the LOC as construction proceeds into a debt service reserve account to earn interest that will be used to retire revenue bonds.

Now hypothetically, had we not had the letter of credit, perhaps some other States would have come up with aggressive leveraging programs that chose not to.

And I don't know about the hypothetical. I can just tell you that the study we did indicated that the letter of credit itself was not the main issue. The main issue was whether or not the State revolving funds are adequately capitalized. It was more the matter of how much money is in the capitalization grant, how much money the States put up as a match for the Federal money, and how the fund is administered—with aggressive leveraging being desired in a few States but, so far, not very many.

Senator MIKULSKI. Well, I think that gives us some assurances that we're not digging ourselves into something here.

STATE REVOLVING FUNDS

Another question deals with the State revolving funds, and we're very happy to have you, Ms. Hanmer, answer it.

As of last year's hearing, only two States had signed capitalization grant award agreements. How many of these agreements are in place today, and what sort of problems are States experiencing in getting their programs approved?

Ms. HANMER. We estimate that 40 States will have capitalization grants by the end of this fiscal year. Right now I believe it's only 17 States that have the capitalization grants. Therefore, as you can see, we have a long way to go in the next 2 to 3 months.

The issues that I've heard largely relate to how quickly State legislatures are moving on establishing the State programs. I have not had very many reports of administrative difficulties between EPA and the State.

Because we're so concerned about what's going to happen within the next 3 months, we have set up a special tracking system. Although we are still planning to reach 40 by the end of the fiscal

year, I'm beginning to get somewhat worried myself, so we need to step up the pace.

WORK AT THE REGIONAL LEVEL

Senator MIKULSKI. And are we working at the regional level? Is a priority directive being given to your regional administrators to get cracking with those State governments?

Ms. HANMER. It has at my level. We have not gone to the administrator's level with this. But I have recently sent out just such an instruction that says we've got to pick up the pace.

Early on we wanted to get headquarters out of the way. And we liberalized our delegations to the regions so that whatever headquarters questions we have are in early. We have contractor assistance that's available to the regions and the States to try to make this process move as quickly as possible.

Senator MIKULSKI. I'm glad you want to get headquarters out of the way because a lot of things can get stuck at headquarters.

My recommendation is that you make sure that your regional administrators, many of whom are new, understand the timeliness and urgency in moving this. If we are going to phase out the construction grant program we'd better get cracking so that the States know where they're heading.

And I'm not so sure they understand that this program is being phased out. They are going to look to the Congress to bail it out over your budget request.

I'm going to ask Senator Kerrey to take over as chairman.

We thank you for your understanding of this, and we'll look forward to seeing you tomorrow.

Mr. REILLY. Thank you, Madam Chair.

LETTER CONCERNING SECTION 18 EXEMPTION

Senator KERREY [continuing]. Mr. Kimm, let me get back and make sure that you and I are together. I was not actually referencing last week's letter, which was really rather clear, but an earlier one that had indicated that if we just got some additional information—and you don't really need to respond to it. I just was wanting to make sure that you understood that the clearer those things can come back—and perhaps this one was clearer than even I read—but the clearer they can come back when we're asking for an exemption like that, the easier it is for us.

Mr. KIMM. If I might, the need for a quick and clear decision on section 18 is critical to the Agency and has been for some time. It's one of the few decisions that is delegated down to the office director level, and generally it works very well.

This particular set of requests came in about the same time that we had some very elaborate data, and it took us a little bit of time to go look at that data so that we could make a more informed call. But, having made the call, I think we are communicating effectively to the three States that requested the suspension.

Senator KERREY. I'm sure you appreciate that there's a lot of local interest here.

Mr. KIMM. I've heard.

LEAKING UNDERGROUND STORAGE TANKS

Senator KERREY. Mr. Reilly, who handles the Leaking Underground Storage Tanks Program?

Mr. REILLY. Mr. Cannon.

SINGLE-SITE OPERATIONS

Senator KERREY. Let me just make a suggestion in the administration of that program. We passed it into law when I was Governor and there's been some criticism of it.

The principal area of criticism comes from what I would call single-site operators, for lack of a better word, that are not possessed of the resources to do the administrative work or, in some—administrative work with the State, or, once the determination has been made of a leaking tank, the replacement of that tank.

And I would just suggest, given the resources that we have in lots of other areas, of consideration being given to working with States to put together some sort of either a bond or a funding pool—not necessarily a grant, but even some kind of a revolving loan that could be used so that we don't have what I think would be an adverse consequence of putting out of business people simply because they don't have the legal or accounting or environmental resources to handle the problem.

Mr. REILLY. It is a fairly familiar problem that I think we have in that program, Senator. We are hearing a great deal about the difficulty that small operators have in either taking the burden of replacing the facility or getting the insurance necessary to carry on. And yet the contribution of these small facilities to an underground water problem—or a ground water problem has been documented and is the reason for the program in the first place.

So there's obviously a difficult balancing concern there. And we don't wish to cause undue distress. And we heard a great deal about problems to these small operators. We're looking at some of the things that we might do. And yet I have to emphasize that the problem is real, and they have been contributing to it.

Would you want to comment on that, John?

Mr. CANNON. I would just say, Senator, in response to your question, the most acute problem right now with the small operator seems to be the financial assurance requirements which are being phased in over a period of time.

We are watching the situation very carefully. Insurance does not seem to be available for the smaller operators right now, and that's a matter of extreme concern to them and to us. About 25 of the States—and we've been working with the States to encourage this—have developed funds that would help out to one degree or another with respect to the financial assurance requirements for the smaller operators. And we're hopeful that those funds will enable at least the majority of those operators to meet those requirements.

We also have an option available to us under the statute titled "Suspension of Enforcement," which we can institute following some elaborate rulemaking proceedings. And we're also investigating that alternative as well.

Senator KERREY. Trust that I'm not asking that a party that's in violation be held harmless at all. I'm not asking that.

And I'm able to separate out those who are asking to be held harmless and those who are simply saying, "We're prepared to share and we want to continue in operation based upon that, but we simply can't either—we are struggling to come up with the up-front costs of just administering it, interacting with the State or in getting the insurance."

We've done pooling of resources before, either pooling for grants or pooling for risks. The Federal Government has block grants out to the States for all sorts of things like that.

And I would just urge you, as you work with the States—we are looking at that in Nebraska as one possibility. But it will take, you know, the power that you all have to help us get that done.

SUPERFUND REQUESTS

I will now read through some Superfund questions that I have here—maybe I won't. I'll read through a few of these.

Another item of particular concern to this subcommittee is Superfund.

Your budget request would provide the Superfund Program with $1.75 billion, an increase of $325 million, or 23 percent, over fiscal year 1989. This rather large increase is being requested at a time when the management of the program has been widely attacked. Criticism is coming from all sides, from the Office of Technology Assessment, the General Accounting Office, the House Appropriations Committee, as well as industry groups.

JUSTIFICATION OF SUPERFUND INCREASE

Mr. Reilly, I join the Chair, who wrote this question, in commending you for your efforts to initiate a 90-day review of the program, but I'm still very concerned—in light of these problems with the Superfund Program, how can you justify this increase, and then what steps are you taking to require a higher stewardship of these resources?

Mr. REILLY. Senator, I am very aware of the shortcomings that several of these reports you've mentioned have pointed to in the Superfund Program. It is, I should just point out, I think a very ambitious program. It's run by very conscientious and effective people, and it's intended to do a variety of things that involve cleaning up after 100 years or so of bad habits, as you described a few minutes ago.

It has proved much more difficult than its authors originally expected. It's clearly going to be a long-term effort, not a matter of 4 to 5 years.

The only thing I would say with respect to the criticisms, many of which I think probably we're going to be prepared to concede, at least in part, is that I think the critics increasingly have to recognize that many of the criticisms are internally inconsistent.

I mean, you cannot fault the program for insufficiently delegating or not using enough innovative technologies on the one hand, and for delegating too much to contractors, for spending too much

per site on the one hand, and not cleaning up adequately, to a high enough standard on the other.

I think that we're going to have to make some sensitive choices in how we administer Superfund, and we're going to have to do that, obviously, with a great deal of consultation and with a careful analysis of experience and past history of the program. But then I would hope that we could do so with considerably more understanding and support for the choices that we do make in the program.

We're asking all of the questions that obviously have been raised by these studies in the management and review. I think that we can respond to a number of them. And we will do that.

But it may well be that we will continue to have some of the questions, some of the concerns, some of the conflicting obligations under the law that I just alluded to briefly. And at that time I think we're going to want to foster a fairly broad ranging public debate in a climate, I hope, of positive support for solving these problems in a reasonably unified way.

HAZARDOUS RANKING SYSTEM OF FEDERAL FACILITIES

Senator KERREY. Is there a reevaluation being done right now of the hazardous ranking system of Federal facilities?

Mr. REILLY. Jon.

Mr. CANNON. Yes; there is. We're in the process of revising—this is for Federal facilities specifically?

Senator KERREY. Yes.

Mr. CANNON. We're in the process of revising the hazard ranking system which would apply to Federal facilities, as well as to other facilities.

Senator KERREY. What's the expected outcome of that? I mean the date, the time line for that?

Mr. CANNON. You mean the time we would expect to have it done?

Senator KERREY. Yes.

Mr. CANNON. We've got it out in——

Senator KERREY. I'm pressing you now.

Mr. CANNON [continuing]. Proposed form. And we would expect it to be done, I guess, probably around the end of the year in final form.

Senator KERREY. The end of 1989?

Mr. CANNON. Yes; I would expect so.

Senator KERREY. What sort of input do you want from elected representatives, such as myself, who might have some ideas? Are you having a hearing process in this or——

Mr. CANNON. The comment period is going on now, and any comment which you would be prepared to make we would certainly consider seriously.

Senator KERREY. We had one. You may be familiar with the one Mead, or you may not be. I assume there are one or two of them that you watch.

We are having some discussions on that right now. And just for your benefit, I might tell you that the first thing we're trying to do

is to assign responsibilities based upon behavior over the last 25 or 30 years. It's exceptionally difficult to do.

And I would just offer to you, at least as my office interacts with you, that I'm prepared to do that. I don't want to come and simply say, "We're not responsible for any of this" because I happen to think we are in many cases responsible for much of it. But it's difficult when it comes time to apportion responsibility, particularly when money is involved, to get that done.

Mr. CANNON. I believe that site is in the process of proposal for inclusion on the NPL. That's the Mead Army Ammunition Facility?

Senator KERREY. Right.

You're in the process of evaluating that one?

Mr. CANNON. Yes.

Senator KERREY. Well, I'll give you some comments at a later time.

Mr. CANNON. Very good.

GLOBAL WARMING

Senator KERREY. Let me ask another question here that was left for me which regards global warming. The President said that fostering international cooperation on the global environment is one of his special areas of concern, Administrator Reilly. How does your budget request reflect this concern?

Mr. REILLY. The budget includes $35.5 million in support for the Global Warming Research Program, particularly for modeling necessary to better understand the very complex chemistry and atmospheric reactions that are thought to contribute to global warming and for stratospheric ozone depletion activities. That is, I think, one of the larger components in the research and development budget.

Let me ask Linda Fisher, the Assistant Administrator for Policy, if she wants to amplify on that.

Linda, is there other funding for global warming as well?

Ms. FISHER. Well, overall the Agency has about, for fiscal year 1990, $23 million for global warming. A large portion of that will be used to undertake analysis in conjunction with the United Nations environment program.

It is an international program that will be looking at three different aspects of global warming. One is a science assessment that the United States is participating in, both with funds as well as with personnel.

The second part of it is on an impacts assessment. The science one is being headed up by the United Kingdom, by the way.

The second panel is going to focus on effects work. The United States is also participating. And my Office particularly, as well as the Research Office, will be donating personnel and effort to that.

The third panel is on response strategies. It's one of the most important of the three panels. The United States is serving as the chair of that panel. And the bulk of the money from the policy office spent in fiscal year 1990 will be going to policy analysis on climate change.

Senator KERREY. Who is coordinating the policy itself, the development of the policy?

Mr. REILLY. EPA is the lead in the effort but—strike that. We're working that out. [Laughter.]

Senator KERREY. Isn't this exciting: Policy being made right here.

Mr. REILLY. I started to say we had the lead, obviously, for the stabilization report which we just released a couple of weeks ago. It is now being reviewed by our Scientific Advisory Board. The question of interagency responsibilities, I think, is to be the subject of an executive order in the future, and that has not yet been decided.

Senator KERREY. Well, I think it's going to be, I'm sure—and I'm preaching to the choir here when I tell you this—but I think it's going to be very important. I mean, these kinds of considerations typically result in a conclusion that requires again, as I referenced at the start, some change either in personal or corporate behavior. And it's awfully difficult for States or, as we're saying in southern California, even municipalities to take action on their own.

Mr. REILLY. Obviously very true.

And clearly something as fundamental and as broad ranging as global warming responses are likely to be involved in fundamental questions of energy policy and of land use and agricultural practices, forestry, and, of course, foreign policy, as well as environmental protection. So we will clearly want to engage the agencies of the Federal Government across the board in that effort.

Senator KERREY. I hope—and I'd appreciate a comment on this—I hope that Office of Pollution Prevention that was created in September 1988 is also considered to be brought under this study analysis.

I mean, again, I just parenthetically observe that I have seen lots of efforts such as this come to nothing because there was simply another program in the absence of a community that's out there ready to do something.

And in spite of the polling data that shows that people are prepared to move, they need to know how and where to move. And that's going to take more than just me going home and saying, "I've got another grant for you." I'm going to have to go back home and participate in a changing of the way we do things.

Mr. REILLY. I think that's right. Clearly garbage and waste are primarily local responsibilities and local problems.

And talking about behavior and the fundamental ways various situations will affect us will entail something that involves all the levels of government. Both leadership and education are needed to provide useful information and guidance.

That is a function that I think EPA would look forward to playing, and, perhaps, has done less of in recent years than we might hope that it may be able to do in the future.

WATER QUALITY

Senator KERREY. And I would again, to connect to something we were talking about earlier—and that is water quality—water quality is something that's on everybody's list.

Every one of us politicians—including myself—that wants to give a good speech on the environment must include our concern for the

quality of water, underground water in particular. But very few of us know what to do. And that, I would observe, we're going to look to you to help us answer that question.

I would hope that the decision is made rather quickly as to who is going to be the lead agency. And I would personally prefer that it would be you, that the Environmental Protection Agency be the agency. I have worked with the EPA at the local level and I trust you. And I don't put that trust out without some experience to back it up.

Mr. REILLY. I appreciate that.

SUPERFUND

Senator KERREY. Let me ask a followup question on Superfund that I should have asked earlier.

I am concerned about the ability of the Agency to expend the dollars that are being requested for Superfund. In fiscal year 1989 there was $150 million in carryover funding from fiscal year 1988, and in fiscal year 1988 there was $371 million carried over from fiscal year 1987.

What is there about fiscal year 1990 that you think is going to be different than those 2 previous years?

Mr. REILLY. Jon.

CARRYOVER FUNDS

Mr. CANNON. If you'll note, the carryover funds have been going down each year. So we are encouraged that this year we'll have no carryover funds at the end of the fiscal year.

In fiscal year 1989, as you know, we got substantially fewer funds for remedial actions than we had requested, so that we actually expect to have some remedies on the shelf ready and waiting to go in the new fiscal year and, therefore, feel quite confident in our ability to obligate all the funds that we have been allotted this year, and to obligate the funds that we would get in fiscal year 1990 under the proposals that we've made.

Senator KERREY. Let me ask a—I'm trying to alternate back and forth between parochial and the more general questions.

NOTIFICATION OF RESPONSIBLE PARTIES

Again it has been brought to my attention by a number of communities—and the most significant one is a community called Hastings, NE, that has been informed that they are—and to use I think your description—a potentially responsible party.

Are you familiar with that phrase?

Mr. REILLY. Yes, I am.

Senator KERREY. It can be a frightening phrase, as you may no doubt understand, to be told that you are potentially responsible.

Are you aware that the meter is ticking or running in regards to these projects? Is there an account that is building against potentially responsible parties?

In this case, Hastings has been informed that $1 million worth of work has already been done before they have been—before they've reached a conclusion that they in fact are responsible for anything?

Mr. CANNON. Well, the responsible party—if this particular municipality is a responsible party—is responsible for the costs of response under the law. And that includes costs from the onset of any activity that we might take using the Superfund trust fund at the site.

I'm not familiar with this particular example so I don't know what the costs accrued might have been, nor when the municipality might have received notice.

We try to notify responsible parties as early as possible in the process because, where we can, we like to have them do the cleanup. That's our preference. And that would include municipal sites as well.

GLOBAL WARMING RESEARCH

Senator KERREY. Mr. Reilly, in your opening comment—and I didn't get all the roads that intersected at once—but you described the EPA as being an intersection of many things. The two that I managed to jot down were science and public policy.

Again relating to the question about global warming, which is of increased concern to practically everyone, if you are designated the lead, no matter whether you were Administrator of EPA or Secretary of Energy or Secretary of Defense, do you see a significant need or a need in any regard to shape or to direct the research that's being done on global warming in particular, or on any environmental issue in general?

Mr. REILLY. The research particularly. Yes, there are quite a number of research questions that bear on global warming. And there are questions of energy conservation and research on alternative sources of energy, on alternative fuels that can play a larger role in our future, particularly where vehicles, automobiles are concerned. There's a good deal, as I mentioned, of need for research about the phenomenon itself, without talking about the responses to it, some of which is in our budget this year, other of which is in other agency budgets.

I think that one effort that has to be undertaken is an assessment overall of the Federal Government's research efforts as they are directed toward global warming. There is a report, I think, of a committee that was chaired or served by the President's Science Advisor on research needs and current research activities affecting global climate issues.

But the answer is very much, yes.

Senator KERREY. Let me just suggest, since I also happened to have the NSF and the President's Science Advisor previously come before this committee to talk about their needs, that I would urge, if you end up being the lead agency, a greater involvement in the formulation of research policy.

It is awfully difficult, it seems to me, for a representative democracy to do many things. There are many things we have a tough time doing. And allocating research dollars may be one of the most difficult.

Not the least of the reasons, it seems to me, is as a consequence of the fact that most of us in the position where we're having to make judgments—myself, for example, 45 years old—diminish the

number of neurons that have the capacity to understand what these people are talking about, having to make policy decisions about how research money—in the case of NSF approximately $2 billion to be allocated in their missions statement—they talk about a number of things that I recognize: biodiversity, global warming—which is why I raise it with you here now.

They have indicated that one of the things that is important in terms of the national interests is global warming. And they're making decisions as to how to allocate those resources.

And I would suggest that as a part of your consideration as you talk inside the administration about how to and who to give the lead to, understand that there are lots of decisions being made over at NSF about what kinds of research we're going to be doing in the short, and I think in the long term.

Mr. REILLY. Fair enough.

I wonder if you might like to hear from Dr. Bretthauer, who is acting head of our Research and Development Office, or perhaps about the overall research effort in our Agency as it relates to some of those other agencies you mentioned.

INTERAGENCY GLOBAL CLIMATE RESEARCH PLAN

Dr. BRETTHAUER. I might say, Senator, that at the present time the Interagency Global Climate Research Plan is a product of the Committee on Earth Sciences, a committee of a number of agencies that all participate in the development of the research budget. We try to get their objectives and opinions into an overall plan.

At the present time it's coordinated through that mechanism, and the budget, the overall Agency budget—EPA's budget as well as budgets of the other agencies—were submitted in concert with that particular plan.

Senator KERREY. Well, I point out to you that when it comes to research it is an attractive means to make one's campaign brochure look fairly attractive: I got a research grant for X and YZ Institution and so forth.

That's why I urge, particularly where we're dealing with—I believe in the case of global warming, unless the facts have permitted an incorrect conclusion on my part, where you're dealing with something that is going to require urgent action as well as additional research, you all are going to have to be relatively forceful in diverting resources, it seems to me.

Dr. BRETTHAUER. I would certainly agree that there should be a lead agency responsible for the overall direction of other research programs. In my opinion, this should be EPA.

GAO REPORT ON GROUND WATER

Senator KERREY. Let me ask again another question prepared by the committee that involves ground water.

The GAO did a report in February 1988 that reached a conclusion that EPA had not established an effective system to ensure that such data relating to hazardous waste, the monitoring of hazardous waste disposal facilities, that such data was not reliable and recommended, the GAO did, that EPA establish controls pertaining

to the type, amount, and quality of information needed for ground water decisionmaking.

EPA apparently has made the decision to postpone these controls. Can you tell me why?

Mr. CANNON. I don't know what the reference would be to postponing the controls in ground water monitoring.

We are addressing ground water monitoring requirements through our permitting process for land disposal facilities, and we are also doing that through our closure program for facilities that are shutting down.

Senator KERREY. I do have some knowledge of this. It is an extremely important thing to do; otherwise you're going to get the "Not in my backyard" syndrome to overwhelm any effort to site hazardous waste disposal. I mean you simply cannot go far enough in ensuring that ground water is protected. I mean if you think you've gone far enough—or, by the way, in disclosing everything that you know. There has to be full public disclosure. There has to be an open access to comment and you have to be, I believe, extremely aggressive.

We're wrestling again in Nebraska with a decision to site a facility known as a low-level nuclear waste site. You may have some knowledge of that. And I don't overstate it to say that people who are advocates for siting that facility in their county have in some instances risked their lives. I mean it is an extremely controversial decision. And what happens is, as you can imagine, if I say to you, "I have just made the decision to put a thing called a nuclear waste dump in your backyard; what's your opinion of it," I suspect at the outset you're going to be somewhat concerned about it.

So I just urge upon you that EPA can't go far enough in saying we are, out of a concern for ground water, we are going to monitor even more than what we typically might do, not only with hazardous but with nuclear waste on this continent.

Well, I'll tell you: Rather than pretending up here anymore, there are lots of other questions to be asked which we'll submit into the record.

Mr. REILLY. All right, sir.

Senator KERREY. I appreciate you all coming up here this afternoon. I've had the opportunity to learn a great deal and get to know you a lot more, and I appreciate that very much.

Mr. REILLY. Thank you, Senator.

SUBMITTED QUESTIONS

[The following questions were not asked at the hearing, but were submitted to the Agency for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR MIKULSKI

GAO MANAGEMENT STUDY

Question. Last year the General Accounting Office issued a management review of the Agency. One of the recommendations (p. 42) concerned the need to link resources with priorities. You have identified wetlands as one of your priorities. How is this reflected in the research budget?

Answer. The Agency considers wetlands research as one of its priority areas. Since fiscal year 1986 the Agency has budgeted approximately $1.0 million annually to conduct research on wetlands. In addition to these base resources, in fiscal year

1990 the Agency will initiate new research on constructed wetlands for the treatment of wastewater from small communities as well as from acid mine drainage. Funding for this new research will be $0.5 million.

Finally, the Agency is also planning to address wetlands, along with estuaries and continental shelf waters, in our proposed Ecological Assessment and Monitoring Program (E-MAP) in 1990. The Agency's fiscal year 1990 request contains $8 million for this new program.

Question. How are the Regional Offices and States involved in setting EPA's priorities?

Answer. The Regional Offices provide input into the budget development process by working with the National Program Managers in Headquarters to identify Regional program priorities. Through this process the Regions are able to adjust the direction of Agency programs through the budget process.

The States provide the EPA Administrator and Assistant Administrators with input on State priorities through State/EPA committee meetings. These meetings are designed to give States a form for raising issues to EPA managers. States also work through EPA's Regional Offices to identify State environmental priorities.

Question. How is flexibility built into the budget to address critical Regional or State priorities?

Answer. Within the constraints of the overall budget development process EPA does permit various adjustments to address shifting priorities. These adjustments are, however, monitored to assume consistency with Congressional directives as well as national priorities.

Question. Another recommendation concerned the need to come up with environmental indicators in order to better measure the progress we are making in improving environmental quality. Can you brief me on the progress you have made in this area?

Answer. EPA agrees with the GAO recommendation that the Agency develop more environmental indicators of progress. It also agrees with GAO's recommendation that such indicators be incorporated, as much as possible, into the Agency's goal setting and program evaluation process, as well as simply for reporting on environmental status.

In certain program areas, there is already a tradition of collecting and reporting data on environmental indicators of progress. One example would be the air quality standards program for NAAQS pollutants (pollutants with established National Ambient Air Quality Standards). States and EPA have collected, analyzed and reported data on ambient conditions of NAAQS pollutants in metropolitan areas in a highly consistent way for many years. Consequently, we have a very good data base from which to draw conclusions on how we are doing at controlling impacts from those pollutants.

Another example of an indicator of environmental quality in use for a number of years is data on certain categories of drinking water pollutants. Through the Federal Reporting Data System for drinking water, the States and EPA regularly record the numbers and locations of exceedences of drinking water standards for specific pollutants in the nation's public drinking water systems serving populations greater than 25 people.

For other environmental programs, and for some other pollutants regulated under the Air and Drinking Water programs, EPA presently has varying degrees of reporting on and use of environmental indicators as measures of success. Some programs have truly enormous amounts of environmental data, often collected primarily by States. But, work is needed to review and synthesize this information into a useful form for review at the national level. Other programs, especially newer ones such as the air toxics or radon programs, may suffer from a lack of widespread environmental data. For such programs, the Agency needs to collect baseline information now, to ensure that in the future we will be able to report on progress in addressing the specific impacts they address.

To address all these needs, the Administrator made developing environmental indicators, and applying them in setting environmental goals, a high priority of his recently proposed Strategic Planning and Budgeting Initiative. Under this initiative, each office in EPA would be responsible to select environmental indicators and, where possible, set environmental goals, in addition to the usual programmatic, activity-oriented goals, for the coming 4 years. This initiative is a major focus of the upcoming spring planning meeting with senior agency management.

Question. How will you get States to use these indicators to set priorities and report progress?

Answer. EPA's ability to require or encourage States to report on ambient environmental quality, particularly using consistent methods, varies greatly from one

program to another. Under the Clean Air Act, Safe Drinking Water Act and Clean Water Act, for example, States are required to report on environmental quality measures of some kind, but the degree to which those reports must support consistent trend analysis differs.

Under the Clean Air Act, States must report ambient concentrations of the specific NAAQS pollutants; trend reports at the State and national level can be readily derived from this data. Under the Clean Water Act, on the other hand, States are only required to report whatever information they have on ambient water quality. This can include or not include measures of any particular pollutant or impact. Also, this can include data from any subset of a State's waters, with that subset changing from one reporting period to another.

Given these differences in legislative reporting requirements, EPA is relying on a series of steps taken on a program-by-program basis to encourage States to report and evaluate progress using environmental indicators. Currently, intensive projects are underway to work with States and EPA Regional offices to develop more consistent indicators for the ground water, surface water and Superfund programs, among others.

In addition, since '987, we have been conducting the State/EPA Data Management Program. Through this program, implemented to date in two or more States in each of EPA's ten geographic regions, we are working to increase the technical abilities of States and EPA to share and integrate existing environmental data bases. The program also encourages technology transfer, so that particularly efficient technical approaches for managing and reporting ambient environmental data can be transferred from State to State. The primary stated goal of this program is to increase EPA and the States' capacities to identify and examine trends in environmental indicators and report on progress in EPA and delegated State programs: to "manage for environmental results".

Question. In your opening statement, Mr. Reilly, you say that new Clean Air legislation must emphasize ways of promoting a partnership between EPA and the States in order to help States achieve clean air goals. This is one of many areas where the agency has been concerned with fostering its relationship with the States. EPA reported last year that it was in dialogue with the States through the State/EPA Committee on how to improve the relationship. What actions has EPA taken to deal with the States' concerns (i.e. the lack of flexibility in carrying out EPA-delegated responsibilities) about their partnership with EPA?

Answer. The relationship between EPA and States is not simply one of providing flexibility in managing delegated activities. Interactions occur in all aspects of program and regulatory management. It is in this broad range of State-EPA communications that the State/EPA Operations Committee functions. As a matter of management policy EPA has and will continue to pursue better performance through closer coordination and cooperation with States by sharing information, consulting on difficult issues, and working together to solve problems. For example on Air matters, The Office of Air and Radiation meets every other month with the Northeastern States Ozone Committee on common problems and approaches to North Eastern Ozone problems, quarterly with representatives of the State and Territorial Air Pollution Program Administrators and Association of local Air Pollution Control Officials (STAPPA/ALAPCO) on issues of program implementation, and for many months the Office has worked closely with a subcommittee of STAPPA to build an understanding of the issues involved in renewal of the Clean Air Act. Such on-going and growing interactions between States, State organizations and EPA are common in all Offices and in all program areas.

Specifically, on matters of flexibility, the Agency has greatly increased the solicitation of operational advice from States in the design of new program activities, and most recently, the agency has begun a major effort of review of the delegation relationship and the barriers to efficient operations. Beginning with the work of a Planning and Management Task Force of the State/EPA Committee, the Offices of Water and Air and Radiation have begun pilot efforts in "differential oversight"—a technique that attempts to fashion EPA oversight involvement to reflect the level of state capacity in carrying out assigned responsibilities.

In addition, the Administrator is instructing all Assistant Administrators, as they assume office, to begin a review of all delegations under their supervision and to propose ways to improve EPA/State performance and to better utilize the resources available for program delivery. The Administrator also is asking each Office in EPA to review their own internal processes and to make changes to promote better State/EPA working relationships, consistent with good management practice and sound environmental policy.

Question. What consideration has been given to GAO's recommendations for improving the partnership?

Answer. GAO recommended that EPA reduce it's review of individual State transactions, establish guidelines for withdrawing delegated program authority, provide multiyear guidance and funding, improve evaluations of State performance, and consider a new approach to the State-EPA relationship that better balances State concerns and EPA objectives.

Reduce review of state transactions.—We have begun "differential oversight" pilot-projects in the National Pollutant Discharge Elimination System (NPDES) and New Source Review (NSR) programs. EPA will limit it's review of certain State actions (e.g. permit-issuance) as long as the pilot States meet certain performance criteria. The NPDES pilot is underway with Virginia and North Carolina; the NSR pilot is underway in Regions 3, 5 and 6. If they are successful, differential oversight will be extended to broader application in both programs in fiscal year 1990.

Establish guidelines for withdrawing delegation.—We are not establishing new guidelines for taking back delegated programs; procedures and criteria for withdrawing delegation currently exist, although they are seldom employed. However, the Office of Water and the Office of Air and Radiation are establishing guidelines for "matching" EPA's oversight of delegated programs to State performance in implementing them. This is the essence of differential oversight.

Provide multiyear guidance and funding.—We are developing four-year plans in all EPA programs that will provide multiyear national program directions for the States. EPA's annual operating guidance will be developed within the context of these longer range plans. We are not giving serious consideration to multiyear grant funding at this time.

Improve evaluations of State performance.—The four-year plans will contain measurable goals, strategies, resource requirements, and indicators to assess environmental progress. We want to use these indicators to evaluate the effectiveness of EPA and State programs in terms of environmental results—as GAO recommended.

Consider fundamental changes in the State-EPA working relationship.—The Administrator intends to work with his Assistant Administrators and the State-EPA Committee to determine what changes are needed to accomplish EPA, State and Congressional expectations for the partnership. GAO's suggested "recertification" approach is one option that we will consider.

Question. To what extent is the States' dissatisfaction tied to the level of Federal funding provided to meet Federal requirements?

Answer. This is one of the States' main concerns about the State-EPA partnership. Federal grants to States and municipalities for most environmental programs have not kept pace with the growing responsibilities that the Federal Government has placed on them. The GAO report makes this clear, and State agency heads expressed their frustration with this situation to the Administrator at a recent State-EPA Committee meeting.

CROSS-MEDIA APPROACH

Question. One of your priority areas, Mr. Reilly, is pollution prevention. I'm glad to see this, and I note that you recently formed a pollution prevention office within the Office of Policy, Planning and Evaluation. This Office will be charged with promoting cross-media efforts, as I understand it. This is so important, so that we don't just transfer pollution from one media to another. What sort of strategy has the office developed to promote this cross-media approach to the way the agency fulfills its mission?

Answer. In the long-run, EPA believes that pollution prevention will become part of the fabric of Agency programs and will be the key to the way we meet environmental objectives in the 1990's and beyond. Program offices, at the Federal, State, and local level, will integrate pollution prevention into the way they do business—incorporating prevention into current and planned regulations, program operating guidance, and management. Starting with that vision, we have established four objectives for the Pollution Prevention Office that will help us accomplish this vision. These four objectives are:

Facilitate development of a multi-media Agency pollution prevention strategy;

Support development of Regional, State, and local multi-media prevention programs;

Build consensus and commitment for a national prevention agenda;

Establish a data strategy to evaluate progress, identify indicators, and build into technology transfer activities.

We have established an Advisory Committee, consisting of senior managers from all the media offices, to the Office of Pollution Prevention. The purpose of this committee is to both provide direction for the Agency pollution prevention program and to then integrate actions into media programs. This committee will help stay the cross-media course.

Finally, I have directed each of the programs at EPA to develop an action-oriented, multi-year, strategic plan that discusses how each program will build pollution prevention into the fabric of their mission. These final plans should be available this summer.

Question. How much will be spent on this effort in FY90?

Answer. In the President's budget for fiscal year 1990, the Office of Pollution Prevention alone is requesting a total of $5.2 million and 9.7 workyears for its Headquarters program. Of this amount, the Office will distribute $3 million as part of its multimedia pollution prevention grant program. Additionally there are 9.4 workyears in the Regional offices.

FEDERAL FACILITY COMPLIANCE

Question. Federal facility compliance with federal environmental laws is an important issue to me. A point made in your opening statement, Mr. Reilly, is that you are concerned with expediting the cleanup of our nuclear weapons facilities to meet environmental standards (p.5). Recently the agency issued its Federal Facility Compliance Strategy to ensure that Federal facilities comply with environmental laws we expect our citizens to abide by. Can you describe your strategy in this area and tell us whether EPA has the ability to really enforce Federal facility compliance?

Answer. The EPA Federal Facility Compliance Strategy, issued in November, 1988, outlines our approach for understanding compliance monitoring and enforcement actions at Federal facilities. It clarifies that Federal agencies must comply with environmental laws in the same manner and degree as all other regulated parties. Each of these environmental laws provides EPA the authority to take enforcement action for violations at Federal facilities and EPA is committed to using all its available enforcement mechanisms to ensure their compliance.

Due to certain constitutional and statutory constraints, EPA's compliance and enforcement procedures for Federal facilities. This policy outlines EPA's strategy for maximizing use of its available enforcement tools for improving compliance at Federal facilities. This guidance sets forth the enforcement response actions, dispute resolution procedures strict timeframes which EPA will follow when environmental violations occur at Federal facilities. The Strategy also outlines EPA's efforts to assist Federal agencies in achieving and maintaining high rates of compliance at their facilities.

Implementation of this Strategy should help to improve EPA's enforcement capabilities against other Federal agencies. While I recognize that EPA is constrained from using certain enforcement tools against Executive Branch agencies (e.g. EPA cannot sue a sister Agency), the use of EPA's administrative enforcement authorities should enable us to maintain an effective and credible enforcement program for Federal facilities.

Question. What do you estimate to be the total cost of requiring Federal facilities to meet Federal environmental laws?

Answer. This is a difficult estimate to make with any sort of firm conviction. We have a number of programs, such as asbestos, underground storage tanks, subtitle D landfills, biomonitoring, and such, that are just moving into the early stages of implementation and for which firm cost data are still being developed. The more traditional, well-established programs have somewhat better developed data, but would not fairly characterize current compliance costs. DOD estimates that the hazardous waste cleanup program will cost that agency between $9 and $14 billion, not including its Rocky Mountain Arsenal. The estimates for the total cost of the DOE hazardous waste cleanup range between a DOE estimate of $50 to $90 billion all the way to a GAO estimate of $140 to $170 billion dollars.

Question. What steps does EPA believe can be taken to encourage an efficient and effective cleanup of hazardous waste at Federal facilities?

Answer. During the last year, EPA has devoted a great deal of effort to encourage efficient and effective remediation at Federal facilities. One such initiative was the creation of the Federal Facilities Hazardous Waste Compliance Office to focus attention on hazardous waste compliance at Federal facilities and to establish a nationally consistent enforcement program for Federal agencies. Another significant EPA effort was the negotiation of the model language for the Comprehensive Environmental Response, Compensation, and Liability Act of 1986 (CERCLA) Section 120

agreements (IAGs) with the Department of Defense and the Department of Energy. These agreements serve as a comprehensive plan for investigatory and remedial activities at Federal facilities. Most importantly, they will provide a facility-wide strategy for action. Thus far, the Agency has negotiated ten IAGs, seven Federal facility compliance agreements, and has issued several permits to Federal facilities which contain corrective action schedules. In addition to these activities, EPA has made a concerted effort to provide technical assistance and training to all Federal agencies involved in remedial work at hazardous waste sites. Also, we have developed focused workshops for Federal agencies' staff on remedial investigations/feasibility studies and CERCLA compliance with other environmental laws.

WASTE MINIMIZATION

Question. Although you say pollution prevention is a priority, as it is with President Bush who calls it one of his special obligation areas, this doesn't seem to have a basis in the research budget. Your research budget for hazardous waste is slated to decrease by 7 percent—from $45 to $42 million. Two research projects are planned, involving $899,000, but beyond that there are really no discernable funding increases for waste minimization. How do you explain this apparent discrepancy?

Answer. The small decrease of $3.1 million in the overall research budget for the Hazardous Waste Program reflects the completion of some dioxin-specific research, a phase-down of support for developing land disposal regulations, and the elimination of funding for an external research center. Over the past several years, the hazardous waste budget in this area was increased considerably. The information derived from research funded in prior years is being completed and commercialized by the private sector.

In fiscal year 1989, the Congress increased funding for pollution prevention research by $2.0 million. This increased level of funding has been carried forward in our fiscal year 1990 budget request.

Question. How much do you plan to spend on waste minimization in fiscal year 1990 ?

Answer. In fiscal year 1990, the Agency plans to spend a total of $3.4 million on waste minimization research. Of this amount, $2.4 million will be for extramural activities and $1.0 million will be for the Agency's in-house research program.

Question. Please describe the waste minimization activities you plan to undertake in fiscal year 1990?

Answer. The goal of the fiscal year 1990 waste minimization research program is to encourage the technical foundation for developing and adopting production, recycling, and consumption practices and processes that result in reducing the amount of waste produced in the United States. The planned program includes cooperative efforts with several states to demonstrate innovative waste reduction techniques and technologies, activities encouraging the use of waste minimization assessments to identify and adopt waste minimization opportunities, demonstrations of waste reduction processes at Federal facilities, and a clearinghouse for dissemination of technical information.

Question. In FY89 the Congress added funds to EPA's budget to establish incentive grants to states for multi-media waste minimization activities ($4 million) and funds for waste minimization research ($2 million). Funds were added in FY88 for incentive grants ($4 million) and to establish a program office ($500,000). As a result of these add-ons, what progress has EPA made in the area of waste minimization?

Answer. Significant progress has been made in a number of areas. EPA awarded almost $4 million through a competitive grant process to 14 states to initiate or expand pollution prevention programs. A second round of grants totalling $3 million will be awarded this fall. The emphasis will be on cross-media demonstrations and program development and implementation.

As indicated earlier, EPA has initiated an Agency-wide strategic planning process that will insure that pollution prevention will be woven into the Agency's environmental fabric. The strategy should be drafted this summer.

The Agency has directed resources to the Regional offices so pollution prevention can take hold in the Regions and also to facilitate pollution prevention at the State and local level. It is also working with the American Institute for Chemical Engineers and other groups to redirect University curricula.

EPA is coordinating with other Agencies, such as the Department of Defense, to urge them to promote pollution prevention at Federal facilities. Meetings are underway with representatives from the Federal procurement and acquisition community to study and influence waste management practices by using the leverage of the Federal Government's purchasing power. In May and June, EPA is cosponsoring confer-

ences to bring together Federal procurement officials and representatives from the Federal sector who generate and dispose of waste.

The Waste Minimization Research Program has been greatly expanded to produce more useful operational and audit data on several small to medium size industries such as chemicals, fabricated metals, electroplating, pesticide formulation, paint manufacturer and printed circuit boards. Cooperative agreements with six states and some universities are being used to identify and work with these industries. A generic industry audit manual was produced that has been requested by more than 5,000 interested users. Industry specific manuals are under development.

The Research Program also initiated a cooperative program with other Federal agencies (Department of Defense and Veterans Affairs) to demonstrate Federal pollution prevention activities. Six DOD candidate sites are being reviewed.

The Agency is developing a peer-matching program which would link up large, successful industry programs with smaller, less environmentally aware companies. The Pollution Prevention Office and the Office of Research and Development are jointly developing a clearinghouse designed to provide technical assistance programs, and grant information to States, industry, and the public. An "electronic bulletin board" is already functional and contains almost 500 abstracts and program information on States and various Federal agencies.

Question. The Agency has stated in the past that technology transfer is a key element in fostering waste minimization. How have you expanded your role in providing information to States on this issue?

Answer. Technology transfer is a key component in achieving our pollution prevention objectives; thus, the Agency has expanded its role of providing information to States in a number of areas and plans to be even more active in the future. As indicated previously, EPA is establishing an information clearinghouse and a peer-matching program to facilitate information transfer not only to States but also to industry and the public. An active grant program focuses on providing financial assistance to State pollution prevention implementation activities. EPA is working closely with the National Advisory Council for Environmental Technology Transfer (NACETT) to insure that pollution prevention is one of the areas of technology transfer. And the workyears in our regional offices will promote and facilitate information transfer at the State and local level.

CONSTRUCTION GRANTS

Question. EPA's Needs Survey revealed that more than two-thirds of the 15,600 wastewater treatment plants have documented water quality problems. Given this fact, how do you justify your construction grants request of $1.2 billion—just half the authorized amount?

Answer. Under the CWA, localities are required to provide facilities to treat their sewage to at least the secondary level regardless of the availability of Federal construction grant funds. Sewage treatment traditionally has been the responsibility of state and local governments. The sewage treatment grant program was enacted in 1972 to aid localities in quickly eliminating an $18 billion backlog in sewage treatment construction projects. To date, the Federal Government has provided over $50 billion in grants to states and municipalities under this program. Virtually all major municipal treatment facilities are in compliance with or on court ordered schedules to come into compliance with the 1988 secondary treatment requirements.

The $1.2 billion requested for fiscal year 1990 is consistent with a $12 billion, 8 year phaseout of this program. The $12 billion was designed to be sufficient to provide the Federal share necessary to meet the 1988 secondary treatment goals and to provide the states with sufficient time to make a smooth transition to self-sufficiency.

Question. What was your initial request to OMB?

Answer. The Agency request to OMB for construction grants totaled $1.918 billion which was split $700 million for Title II and $1.2 billion for Title VI. An additional $18 million was requested for the San Diego-Tijuana defensive works project.

Question. You are requesting only $400 million for grants for construction of sewage plants—one-third of the authorized amount. How many projects would be funded with this appropriation?

Answer. The Agency estimates that about 114 construction projects could be funded for $400 million.

Question. Since this is the last year for the traditional construction grants (Title II), it is also the last year for set-asides under Title II of the Clean Water Act, such as combined sewer overflows and the National Estuary Program. How will these set-asides be funded after fiscal year 1990?

Answer. The National Estuary Program and marine CSOs currently receive funds under the provisions of Section 205(l). Specifically, prior to the allotment of Title II construction grant funds to the states, one and one-half percent of the Title II appropriation is reserved for marine CSOs (one percent) and the National Estuary Program (one-half percent). The Section 205(l) Marine Estuary Reservation does not apply to funds appropriated for Title VI State Revolving Funds; therefore, 1990 is the last year new funds will be provided under Section 205(l). However, estuary activities under section 320 are eligible for SRF assistance as provided by section 601(a).

There is no set-aside from each state's Title II construction grants allotment for combined sewer overflows (CSOs). However, CSOs may be funded under section 201(g)(1), the Governor's 20 percent discretionary set-aside. Section 201(g)(1) is also included in the State Revolving Funds (SRFs) under Title VI. Assistance to CSOs is limited to 20 percent of the funds directly made available by the capitalization grant (i.e., Federal funds) unless the state determines under section 201(n)(1) that CSOs are a priority in its water quality program.

Question. I am very concerned that Combined Sewer Overflows would not be funded after fiscal year 1990. The Needs Survey estimated that CSO correction projects amounted to $16.4 billion in design year funding needs. What do you plan to do to address this problem?

Answer. When Title II appropriations end, so does the section 205(l) marine CSO set-aside (which in fiscal year 1990, is one percent of the section 207 appropriation). However, CSOs may be funded by State Revolving Fund programs as provided by Title VI: (1) using funds directly made available from the capitalization grant, through section 201(g)(1)(A)—the Governor's 20 percent discretionary setaside; (2) unlimited use of funds if, as provided under section 201(n)(1), the state has determined that CSOs are a major priority in the state's water quality program; and (3) with state match funds and repayments at any time after first use requirements are addressed.

In addition, CSO corrections may be incorporated in State Nonpoint Source Management Programs or estuary comprehensive conservation and management plans prepared in accordance with sections 319 and 320, and may be funded through appropriations for sections 319 and 320 activities.

CONSTRUCTION GRANTS NEEDS SURVEY

Question. The Clean Water Act requires that biannually EPA conduct a survey of unmet wastewater treatment construction needs. What was the cost to EPA and the states of preparing the latest needs survey report in 1988?

Answer. The EPA cost to prepare the 1988 Needs Survey Report to Congress which covered a two-year period totaled $758,000. The estimated annual hours expended by the states and territories to respond to the most recent Survey was 11,200 hours or $190,000.

Question. What purpose does the Needs Survey serve and how does it affect decisions made on the environment?

Answer. The Needs Survey fulfills the requirements of Sections 205(a) and 516(b)(1) of the Clean Water Act. The Act requires EPA, in cooperation with the states, to assess the capital investment required to build or improve needed publicly owned wastewater treatment facilities in each state. The 1988 Needs Survey is the ninth needs assessment since enactment of the Federal Water Pollution Control Amendments of 1972.

The Survey currently has several uses. It: 1) provides information for Congressional allotment of funds appropriated for the construction grants and State Revolving Fund programs; 2) is used by many state program officials to provide direction in addressing their municipal wastewater treatment facility needs; 3) is used extensively by EPA as a baseline for various technical analyses on wastewater and for policy and program evaluation purposes; and 4) is used to respond to numerous requests for information from private firms, public interest groups and trade associations on wastewater treatment needs.

The Needs Survey affects environmental decisions indirectly. Municipal facilities are constructed to control pollution of surface waters or to solve public health problems. As an inventory of needs, the Survey identifies actual or potential problems. It also serves as the basis for the project priority lists which reflect each state's decisions about addressing the most pressing municipal pollution problems first. Finally, as a national data base, the Needs Survey is used by EPA in making a variety of programmatic and policy decisions.

Question. In March 1985, GAO raised questions about the reliability of the 1982 Needs Survey in that estimates were based on outdated facility population and engineering data; inconsistent state assumptions on sewage needs; and assumed future pollution problems. How were the assumptions for the 1988 survey different?

Has an assessment been made of the reliability of data collection and analysis efforts contained in the 1988 report? If so, please explain what the results were.

Answer. The reliability and consistency of the Needs Survey data have been significantly improved since the 1982 Survey. In the 1986 Survey, EPA established rigorous documentation criteria that were used to evaluate the existence of a facility's water quality or public health problem. The documentation criteria ensured that the needs were based on consistent, specific and reliable forms of documentation. A list of 17 types of documents was developed to serve as guidance for acceptable documentation of needs.

The 1988 Needs Survey used the documentation criteria that were established for the 1986 Survey. To further improve the quality of the 1988 needs estimates, states were asked to review their 20 largest facilities with needs and EPA verified the estimates. EPA also conducted a rigorous quality assurance check of the estimates which included site visits to states that had questionable needs. The need had to be an existing water quality or public health problem, i.e. needs solely for growth were not accepted. The documentation examples include facilities plans, state priority lists and capital improvement plans. In addition, EPA reviewed the state-supplied documentation for each estimate to ensure it met the established criteria.

While EPA exercises a level of quality control, the reliability of the data is ultimately a function of the care the states take in preparing their estimates. We know that the 1988 Needs Survey contains several estimates that states chose not to update from previous Surveys. Generally, however, we believe the Needs Survey to be a reasonably reliable estimate of national needs.

PESTICIDES—LONG-TERM/SYNERGISTIC EFFECTS

Question. Do you believe the public should be informed about which products have been fully assessed for long-term effects? How do you plan to do so? How do you plan to convey to the public in a timely manner changes in product availability, uses, warnings and restrictions?

Answer. Yes, EPA believes that the public should be fully informed as to what we know about the long-term effects pesticides. As pesticides are assessed for their long-term effects under the provisions of the amended Federal, Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA plans to communicate with affected public constituencies which may be affected by its findings and decisions. The principal vehicle for public communication of chemical-specific assessments is a Fact Sheet, which is developed primarily for the non-technical public. A Fact Sheet is a synopsis of the Agency's findings and regulatory decisions on a particular chemical.

As part of the phased reregistration process mandated by the amended FIFRA, EPA is developing a comprehensive computerized mailing list of constituent groups, such as user groups, environmental and public interest groups, academia, etc., which will be used to communicate with groups having an interest in specific chemicals or decisions. Whenever the Agency reaches a decision point in the assessment process, it develops a Communications Strategy identifying the interested groups, and will communicate directly with these groups. EPA anticipates that one principal decision point under the amended FIFRA will be when the Agency determines that a pesticide has a complete data base and products containing the active ingredient are ready for reregistration. At that point, EPA will issue a document such as a Registration Standard setting out its findings on long-term effects and a Fact Sheet summarizing those findings.

With regard to public information on changes in product availability, uses, warnings, and restrictions, current Agency documents assessing a pesticide address all facets of the pesticide, including which uses are permitted, what warnings about long-term effects are necessary, and what restrictions upon use are appropriate. The Agency will continue to update these documents as uses change and will make them available to the public. Information concerning individual products is made available on a nationwide computer network, the National Pesticide Information Retrieval System, to which many States and user groups subscribe.

The Agency also develops a number of topic-specific reports, such as its Restricted Use report, updated quarterly, which lists all products that are classified for restricted use and a Hazard Warning report, which lists chemicals for which chronic effects warnings are required. Each of these is available on a continuing basis to the public.

The Agency issues a number of Federal Register documents concerning its activities each year. Under the amended FIFRA, for example, the Agency must publish lists of pesticides for which all uses have been canceled. Although the Federal Register is not generally regarded as an information source for the general public, publication in the Federal Register often triggers development of a Communications Strategy, targeting affected groups to whom the Federal Register notice may be mailed.

Question. The Agency generally assesses the health effects of individual active ingredients that go into our pesticides. Shouldn't you plan to focus on determining the synergistic effects of combining more than one active ingredient in a product, a recommendation GAO makes in their EPA transition document (p. 21)?

Answer. The Agency obtains product specific toxicity data on various formulations. These data usually consist of acute oral, dermal and inhalation toxicity studies, along with eye and skin irritation studies. These are the basic acute studies used for labeling and protection of the applicator or mixer/loader. Unusual toxicological interactions between the active and inert ingredients of a pesticide formulation would likely be apparent in these tests. To try to assess anything other than acute effects of pesticide formulations would be an impossible task due to the magnitude of the possible numbers of pesticides, food additives, drugs, and industrial pollutants which the average person might come into contact with daily. The ability of acute studies to predict toxicity from chronic exposure is poorly understood. Plausible arguments are that interactions are more likely to be seen at high acute exposures than at low chronic exposures. This argument has empirical support in that most toxicologic interactions involve pharmacokinetics, and with single chemicals, most pharmacokinetic pathways are altered at high doses but not at low doses. Dietary exposure of humans to pesticides has kept orders of magnitude below the toxic effect levels from acute studies and below even minimized effects of chronic studies. This means that even for chronic exposure the chance for synergism is considered unlikely. Research is in progress on several fronts to improve the understanding of toxicologic interactions.

Question. Do you believe EPA is adequately assessing the synergistic effects of exposure to combinations of chemicals? What would it take to be able to do this kind of assessment?

Answer. The Agency believes that there is an adequate assessment of the possible additive or synergistic effects of the acute effects of pesticides in a particular pesticide formulation. Data on single chemicals and their combination in formulations are required and available for scientific evaluation. If the question is "has the Agency assessed the possible subchronic or chronic effects of each insecticide used on, for example, pears or apples in combination with each fungicide or miticide used on pears or apples", the answer is no. Such an assessment of all types of toxicity testing to all possible combinations of pesticides used on even a single major crop would exhaust the laboratory testing facilities of the country and is not technically feasible. Instead, one research path involves the characterization of toxicity, including interactions of general classes of chemicals. This research will allow the estimation of interaction involving untested combinations of chemicals based on information on other mixtures.

Question. Do you believe that EPA should consider the cumulative risk from all routes of exposure to a pesticide when setting tolerances?

Answer. The Agency believes that setting a tolerance on a food or feed item implies the possibility that humans may be exposed to low levels of that pesticide for their entire lives. If it can be shown that other routes of exposure, e.g. water or air will lead to chronic daily exposure, then the impact of these routes should be considered in our tolerance process.

PESTICIDES—FIFRA

Question. There are 50,000 pesticide products currently available for public use, most of which have not been assessed for their long-term health effects. Only 11 of 600 active ingredients used in pesticides have been assessed.

The 1988 Federal Insecticide, Fungicide and Rodenticide Act Amendments call for speeding up EPA's pesticide reregistration program. How much do you plan to spend on FIFRA activities in fiscal year 1990?

Answer. For the record it should be noted that EPA files contain about 40,000 individual pesticide product registrations, of which a substantial but unknown number are not actively produced. EPA expects that requirements of the accelerated reregistration program will result in many thousands of voluntary cancellations of inactive and marginal products. It should also be noted that nearly all pesti-

cide active ingredients do have supporting health and safety data filed with EPA, and that the Agency has conducted detailed reviews of the data supporting over 195 of the most widely used ingredients to determine completeness of the available data. Since current data requirements are very stringent, EPA usually requires additional studies—hence the small number that meet current requirements in every respect. Our budget plans for the 1990 FIFRA 1988 reregistration activities are being reviewed at this time.

Question. Has the agency developed a final reregistration implementation plan?

Answer. Yes, the Agency has developed a final reregistration implementation schedule. The schedule was signed by the Acting Assistant Administrator for Pesticides and Toxic Substances on April 20, 1989 and was published in the Federal Register on April 26. The schedule does not address the reregistration plan for List A pesticides. These will be addressed in an interim plan scheduled for the end of May.

Question. What is the status of that plan—has OMB given final approval? When do you expect OMB will sign off on the implementation plan?

Answer. The Office of Management and Budget (OMB) has been briefed on the Agency's plans to implement the 1988 FIFRA amendments. The plan was not submitted for OMB formal approval. The Agency will continue to work with OMB as policy issues arise.

Question. How many additional employees will you need to hire in order to meet reregistration deadlines? When will these people be brought on board? At what cost?

Answer. The Agency has submitted a request to OMB for a 1990 FTE level to support FIFRA 1988 reregistration activities. The Office of Pesticide Programs 1990 budget provides a base of 170 FTE for these activities. Our requested increment, to be funded by the FIFRA Revolving Fund, will supplement this base and provide resources needed to meet the mandates of the FIFRA Amendments of 1988. While we are awaiting OMB's decision on our request for additional FTE, we have established an aggressive recruiting campaign to hire personnel in a variety of disciplines and expect to begin hiring FIFRA 1988 employees in 1989.

PESTICIDES—BANNING OF ALAR

Question. A recent study by the Natural Resources Defense Council found that one in every 4,000 preschoolers will develop cancer as a result of Alar residues in apple products. EPA's own standard of an acceptable cancer level, as I understand it, is one in a million. Do you agree with NRDC's findings?

Answer. No, the Agency does not agree with NRDC's findings. The Office of Pesticide Programs recently conducted a cancer risk assessment based on the one-year interim sacrifice results of a two year UDMH (unsymmetrical dimethyl hydrazine) oncogenicity study in mice. The cancer risk during the 18 months (January 1989 to July 1990) that it would take to complete cancellation was less than 1 in 1,000,000 additional lifetime cancers for the general U.S. population. The level of cancer risk from a lifetime (70 years) of exposure to Alar-treated products was estimated to be 40 in 1,000,000 or 40 times greater than the standard for negligible risk. However, the upper bound risk may be less, and the lower bound could be as low as zero. Because children have a higher exposure during childhood when they eat more applesauce and juice per body weight than adults, a greater portion of lifetime risk (9 in 1,000,000) occurs during childhood. The difference in NBC's assessment and the Agency's is due in large part to different cancer potency factors used (NRDC's was based on old data that the Scientific Advisory Panel found to be seriously flawed, which was approximately 10 times that of the new data used by the Agency), and different estimates of consumption.

Question. Do you plan to ban the sale of Alar, and if so, how long will that take?

Answer. The Agency is in the process of canceling Alar registrations for use on food. On January 31, 1989, the Agency announced that within 90 days, it would issue a proposed decision to cancel the food uses of Alar. The Agency intends to allow a 60-day comment period during which the public may comment on the proposed decision. The Agency will incorporate any comments received as well as the final UDMH test results into a final determination (likely a final cancellation notice) which will be published in the spring-summer of 1990. A final notice of intent to cancel may be challenged by a registrant who can request an adjudicatory hearing on the action. If a hearing were requested, the cancellation could not become final until completion of the hearing.

Question. Your Acting Deputy Administrator and former Assistant Administrator for Pesticides and Toxic Substances, Dr. Moore, said that he did not believe the data

warranted immediate action. How can he or the Agency say that if there is any question that the cancer risk is 1 in 4,000?

Answer. As noted above, the Agency has calculated the lifetime cancer risk from infants' dietary exposure to UDMH to be 9 in 1,000,000 over the next 18 months. Based on this risk level, the Agency is not taking immediate regulatory action. However, EPA is proposing to cancel the registration of Alar for use on food commodities based on risk from a lifetime of exposure.

Under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) the Agency does have the authority to emergency suspend Alar's registrations. In order to emergency suspend a pesticide registration, however, the Administrator must make the finding that there is an "imminent hazard" and that an emergency exists that does not permit him to hold a hearing. There were several factors that the Agency considered in deciding that dietary exposure to Alar and/or UDMH residues does not present an imminent hazard. These included: (1) the level of risks (less than 1 in a million for the general population for the next 18 months—9 in a million for infants), and (2) uncertainties in the data—the cancer response seen in UDMH was seen in only one species (mice, rat was negative), mutagenicity data on UDMH was negative to equivocal, and UDMH studies are not yet completed.

PESTICIDES STORAGE AND DISPOSAL

Question. Your fiscal year 1989 budget included $46.35 million for the transportation, storage, and disposal of canceled or suspended pesticides. You are requesting $15 million in fiscal year 1990 for this purpose.

You had planned to complete the disposal of EDB and a significant portion of Silvex in 1988. In 1989, the large increase in resources were to be directed toward the final disposal of Silvex stocks and on the transportation, storage and disposal of dinoseb. Can you update us on the status of those activities?

Answer. Disposal of ethylene dibromide (EDB) was essentially completed in 1988, and all remaining stocks will be disposed of in fiscal year 1989. Also, in December 1988 the Agency awarded contracts for disposal of dinoseb at a total maximum cost of $34 million, and most of this cost will be incurred in fiscal year 1989. Demonstration burns on dinoseb are planned for this spring. Full-scale dinoseb disposal will begin by the summer, based on successful completion of the demonstration burns.

The Agency has awarded contracts for storage of national stocks of 2,4,5-T/Silvex until facilities are permitted for disposal of these dioxin-containing pesticide stocks, and a contract award can be made. There are currently no commercial facilities in the country that are permitted to burn wastes containing dioxin. The $15 million requested for disposal in fiscal year 1990 is primarily for storage of 2,4,5-T/Silvex stocks. The total costs of 2,4,5-T/Silvex disposal are not yet known.

Question. What will be the agency's financial responsibility to indemnify holders and bear the costs of disposal of canceled or suspended pesticides in fiscal year 1990 for chemicals suspended and canceled prior to the 1988 amendments?

Answer. EPA does not believe that the 1988 amendments are applicable to its current indemnification and disposal programs for EDB, 2,4,5-T/Silvex, and dinoseb. Our estimated financial responsibility in fiscal year 1990 is $15 million in appropriated funds, primarily for 2,4,5-T/Silvex disposal, and approximately $5 million for remaining dinoseb indemnification. The indemnification payments will be made from the Judgement Fund. Additional payments for dinoseb indemnification may be required based on new claims submitted in response to the Agency's February 17, 1989 Federal Register notice announcing new submission deadlines for dinoseb claims.

SUPERFUND—MEETING STATUTORY REQUIREMENTS

Question. The Agency has not met about half of the deadlines imposed by the Superfund Amendments of 1986, among these revising the Hazard Ranking System and the National Contingency Plan, and completing its inspections at National Priorities List sites. Agency officials have stated in the past that funding limitations have been part of the problem. Yet, over the past few years, EPA has not been able to obligate all of the money it has been appropriated for Superfund.

Which Superfund activities have been hampered by funding shortages and why haven't unobligated appropriation balances been applied to these activities?

Answer. Funding shortages have not prevented the Agency from meeting the Superfund Amendments and Reauthorization Act of 1986 deadlines for the Hazard Ranking System, National Contingency Plan, and the goal for completing site inspections. As in any program, there are activities which may not be funded due to overall funding constraints. These funding constraints arise from overall budget def-

icit reduction considerations or specific Congressional reductions. However, whatever the Agency's funding level, projects are ranked to ensure that the highest priority activities are the ones that are fully funded.

Question. What factors, other than funding constraints, have hampered program progress?

Answer. For regulatory documents, like the Hazard Ranking System (HRS) and the National Contingency Plan (NCP), program progress was hampered by the complexity of the issues which had to be addressed in developing the appropriate regulatory structure. We published our proposed revisions to the NCP in the Register in December 1988. During the public comment period, we received approximately 160 comments. As of April 20, 1989, we are still reviewing and addressing those comments so that we can prepare the final regulation.

On the other hand, progress in completing site inspections (SI) was affected by other program priorities. The SI goal (not a deadline) in the Superfund Amendments and Reauthorization Act was unachievable due to the large number of sites which had to be addressed and the short time period available. To meet the goal, as stated, we would have had to redirect a significant number of staff from other high priority activities. The effect would have been work stoppages at some sites or fewer starts at new sites. We chose, instead, to continue ongoing priority activities and to achieve the goal by the end of 1991.

SUPERFUND NATIONAL CONTINGENCY PLAN

Question. The proposed changes to the National Contingency Plan were released 7 months after the revisions were to be completed. These changes supposedly will ensure faster, more thorough cleanup of hazardous waste sites and seek to get a greater number of private parties to pay for clean up. Can you tell us why there was such a delay?

Answer. Issues arising during EPA's development of revisions to the National Contingency Plan were numerous and complex. Representatives from every major EPA office, Region, several States, and other Federal agencies participated in detailed discussions on these issues. Because of the magnitude of the project and the number of interests involved, and EPA's goal to achieve consensus among all parties, the proposed revisions took much longer than the statute anticipated.

Question. The proposed changes would allow other Federal or State clean up programs to undertake projects outside of Superfund. Some environmentalists claim this could result in less stringent clean-ups. How do you respond to this claim?

Answer. In the National Contingency Plan preamble, the Agency asked for public comment on the question of whether sites deferred to other Federal authorities should be required to meet some or all of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) standards. Several other laws contain cleanup requirements, independent of CERCLA. For example, the Agency already has a policy in place of deferring sites to Resource Conservation and Recovery Act Subtitle C and Nuclear Regulatory Commission authorities. These authorities are fairly similar to CERCLA in terms of their stringency. Other authorities (e.g., the Surface Mining Control and Reclamation Act of 1977) may have less stringent cleanup standards than CERCLA. Because CERCLA has a board authority, sites could be listed on the National Priorities List (NPL) even if they are otherwise regulated under another statute.

Various options for listing are being considered by the deferred listing work group. Under some options, remediation may be less stringent than under CERCLA. Under other options, remediation will be as stringent as under CERCLA. No decision has been made on which option or options for deferral will be selected.

It is important to point out, however, that there may be a tradeoff between imposing CERCIA standards on States and other Federal authorities and actually cleaning up more sites listed on the NPL. States and responsible parties under other Federal authorities may be statutorily unable or generally unwilling to meet CERCLA standards. Ultimately, the deferred listing policy is suggesting that even if site remediation by States and Federal authorities are less stringent than in some cases, it is nevertheless preferable to not list these sites on the NPL to ensure the greatest number of cleanups, even if not to the same level of stringency, and to reserve on the NPL those sites which cannot be addressed by other authorities.

Question. You have stated in press releases and other documents that the Agency plans to promulgate the revisions to the NCP in late 1989. Are you still on schedule? Can you name the month you plan to promulgate the revisions?

Answer. The scheduled date of promulgation for the National Contingency Plan has been lengthened because the public comment period was extended by a month

in response to a number of requests. Our current target for promulgation is the end of January 1990. This is still an ambitious schedule, considering the size of the regulation, the complexity of the issues, and the number of comments that we have received.

Question. Can you quantify what sort of savings, if any, you anticipate will arise from the revised system?

Answer. Because the Superfund Amendments and Reauthorization Act added many new requirements for both removal and remedial actions, and the response process, the revised National Contingency Plan (NCP) is not likely to promote cost savings. The NCP does, however, emphasize cost-effectiveness in evaluating cleanup alternatives, and also requires making the removal contribute to the efficient performance of any remedial action.

SUPERFUND—CONTRACTOR USE

Question. The Office of Technology Assessment issued a report in January entitled "Assessing Contractor Use in Superfund." OTA reports that during the last 8 years the Superfund program has passed through 80 to 90 percent of its funds each year to contractors (OTA Rept. p. 3). As a result, the contracting industry has had an enormous influence over the program, but without adequate oversight by the Agency, leading in many cases to poor technical performance. Aren't you concerned that the Agency is losing control over its fastest growing area of responsibility?

Answer. EPA relies heavily on contractors to accomplish its Superfund mission. This has been the deliberate design of the program since its inception. Our extensive use of contractors has necessitated the creation of an adequate oversight function on EPA's part. EPA continues to take steps to ensure efficient and effective contract management.

EPA does not believe that it is "losing control" of the Superfund program to contractors. Contract management initiatives continue to receive senior managers' priority attention.

Question. One of the recommendations of the OTA report was to decrease spending for contractors by 30 to 50 percent a year, and to move those funds into research on cleanup technologies; educational programs for an engineering and scientific workforce; health effects research; and for assessing how many sites require cleanup (OTA Rept. p. 8-9). If we followed OTA's recommendations, how would that affect your operations?

Answer. A significant portion of the funding which we use to implement remedies at sites is expended through contractors. The areas that the Office of Technology Assessment (OTA) proposes that we reprogram, 30 to 50 percent of these funds, are not as high a priority as direct site remediation. Implementation of the OTA recommendation would mean the immediate stoppage of most ongoing site work and a severe reduction in the amount of new site work which could be started. Unless potentially responsible parties took over the work (a dubious assumption given our lack of funds with which to leverage them), site remediation activities for all sites on the National Priorities List would take considerably longer.

SUPERFUND—WORKFORCE RETENTION

Question. In 1987 over one-third of Superfund employees planned to look for other jobs due to reasons including limited advancement opportunities; inadequate salaries; and inadequate training. (Status of Open GAO Recommendations, p.321) What was the Superfund employee turnover rate in fiscal year 1988?

Answer. The overall turnover rate, including transfers to other Federal agencies, was 13.24 percent. The turnover rate for quits was only 9.74 percent .

Question. How do you intend to deal with this problem of staff retention?

Answer. EPA has designed a Superfund Employee Support Program which, although primarily aimed at On Scene Coordinators and Remedial Project Managers, is designed to improve the recruitment, development and retention of all employees who are involved in managing Superfund cleanups. The program components are:

Career Tracks and Grades—to conduct job analysis and refocus roles/responsibilities and provide higher-graded non-supervisory career tracks including minimum criteria for selection/promotion.

Training and Development—to provide the necessary skills and knowledge for cleanup management through mentoring, basic training curriculum, and rotational assignments.

Continuing Education—to allow for increased individual skill and knowledge through developmental hiatuses with continuing employment agreements and courses for further education.

Superfund-University Training Institutes (SUTI)—to develop and conduct case study workshops on critical technical, legal or site management problems (coordinated with EPA Institute Network).

Structured Training and Evaluated Program (STEP)—to certify, monitor and recognize the accomplishment of specified requirements for each developmental level, including education, training, mentoring, time-in-service, and satisfactory performance.

Site/Incident Characterization—to rate sites/incidents on basis of condition, human and environmental risk, technical complexity and management and administrative requirements in order to aid in workforce planning.

Awards—to recognize individual and group accomplishments and outstanding performance.

Professional Organizations—to support and encourage participation in OSC/RPM professional organizations societies other relevant associations.

Workforce Planning—to identify, track and characterize targeted groups of employees and project future workforce needs.

Institutionalization of the OSC/RPM Support—to monitor, publicize and assess the Support Program through ongoing attitude surveys, communications, tools for Supervisors, management performance standards, and Regional reviews.

We hope to complete implementation phases of most of the components by October 1989.

Question. What sort of incentives are you putting in place to encourage staff to remain with the Federal Government rather than go to the private sector?

Answer. The Support Program has been developed with input from Regional employees and supervisors to encourage staff to stay in the Superfund program for a longer period of time. Full development and implementation of this program will help EPA keep Superfund employees longer, particularly those critical to the clean up of hazardous waste sites—the On Scene Coordinators and Remedial Project Managers. However, turnover will continue to be part of the problem as long as Federal salaries for these occupations remain non-competitive with those in the private sector and some state agencies.

SUPERFUND—STATUS OF CLEANUPS

Question. At the end of 1988, about $4.3 billion of the $10.1 billion authorized for Superfund has been obligated, but cleanup has been completed at only 38 of the almost 800 sites on the National Priorities List. What is EPA's estimate of the Federal cost of cleaning up the 1,200 sites currently on or proposed for the NPL?

Answer. There are two primary variables which affect any estimate of the Federal cost of remediating the problem at the approximate 1,200 sites currently on the proposed National Priorities List (NPL). The first is the number of sites that will be remediated by potentially responsible parties (PRPs). Historically (pre-Superfund Amendments and Reauthorization Act (SARA) of 1986), PRPs have initiated about 30 percent of construction projects. However, PRPs are responsible for work at about 50 percent of the construction projects we have recently begun. Our current goal is to have PRPs address about 50 percent of the sites.

The second variable is the cost of implementing a remedy at each site. Construction costs of sites can range from less than $1 million to more than $100 million. Our internal projections of costs per site have risen steadily, especially when we calculate the additional requirements which resulted from SARA. Our current working estimate of average cleanup cost by site is approximately $20 million.

However, because of the wide variation in sites and other complicating factors, we have not developed an estimate of the cost to the Federal Government.

Question. What remains to be done before EPA will have a complete inventory of hazardous waste sites in the country needing evaluation? What are you currently doing to complete this inventory?

Answer. EPA's inventory of hazardous waste sites now contains approximately 30,000 sites. About half of the current inventory were placed in the Comprehensive Emergency Response, Compensation, and Liability Information System (CERCLIS) in the first 3 years following the passage of the Comprehensive Environmental Response, Compensation, and Liability Act. Since then, the number of sites added to the inventory has averaged two to three thousand per year, with a slight decline in the past few years. We cannot tell yet whether this is a trend that will continue.

The full and efficient evaluation of this universe has represented a significant workload for EPA and the States, and for this reason comparatively few site discovery efforts have been undertaken. The Office of Emergency and Remedial Response (OERR) in Headquarters is conducting special studies to evaluate categories in ques-

tion, and to characterize the sites both on the National Priorities List and in the CERCLIS database. These efforts will help focus any future discovery efforts.

Question. At the end of 1988 you were evaluating an additional 21,000 sites to see if Federal action was needed. What percentage of these do you estimate will eventually require Federal action and at what cost to the Federal Government?

Answer. The Comprehensive Environmental Response, Compensation, and Liability Information System data base now contains approximately 30,000 sites, of which 28,000 have received at least a Preliminary Assessment. To date, the Agency has decided that further Federal action is not appropriate at 13,000 of these sites and has listed 1,200 on the National Priorities List (NPL). Therefore, approximately 15,000 sites are still in the process of being evaluated.

Historically, relatively few of the sites evaluated have posed a significant enough threat to human health and the environment to require remedial action under Superfund. A reasonable assumption is that between 5 percent and 10 percent of the sites evaluated will eventually be listed on the NPL. Thirty thousand sites would therefore be expected to result in approximately 2,100 NPL listings over time. Our current goal is to have Potentially Responsible Parties (PRPs) address about 50 percent of the sites. The cost of implementing a remedy at each site has ranged from less than $1 million to more than $100 million. Our current working average construction cost per site is approximately $20 million. However, because of the wide variation in sites and other complicating factors, we have not developed an estimate of the cost to the Federal Government.

SUPERFUND—SPEEDING UP THE PROCESS

Question. The Inspector General's fiscal year 1987 Annual Superfund Report to the Congress revealed that there had been significant time delays in completing the Remedial Investigation/Feasibility Study phase of the Superfund pipeline. Out of the 37 RI/FS actions reviewed, only 5 had been completed and only one of these was completed in less than 2 years. In one Region, work on 8 RI/FSs had not begun although more than $6 million had been obligated for this work. The delays in the RI/FS actions significantly delay the ultimate cleanup of the Superfund sites. How are you improving RI/FS procedures to prevent these excessive delays?

Answer. As a result of three internal analyses, EPA has modified the remedial investigation/feasibility study (RI/FS) process. These analyses were undertaken to determine ways to improve the schedule and cost efficiency of the RI/FS while concurrently improving the technical quality of RI/FS work. Both studies were completed by work groups composed of Headquarters, Regional, Federal facility, and RI/FS contractor staff.

The analysis, conducted in fiscal year 1987, resulted in the issuance of the Office of Solid Waste and Emergency Response (OSWER) Directive 9355.0-20, "RI/FS Improvement," on July 22, 1987. This directive, and the accompanying study, focused on four areas for RI/FS improvement including: planning the RI/FS process to include several phases of data collection when necessary; streamlining RI/FS planning activities by consolidating planning documents and initiating preliminary field work as soon as possible; managing transfers of responsibility during the RI/FS process; and improving RI/FS quality control through the use of a group of internal site experts called a technical advisory committee.

EPA followed up these recommendations with a second analysis during fiscal year 1988 which resulted in OSWER Directives 9355.3-05, "RI/FS Improvements Follow-up," dated April 25,1988, and 9355.3-06, "RI/FS Streamlining," dated February 14, 1989. These directives discussed additional improvements to the RI/FS process in the technical, procurement, enforcement, State involvement, and program management areas. These directives also include an explanation of a "streamlined approach" to the RI/FS process developed by EPA. This approach, consistent with the proposed revisions to the National Contingency Plan and the RI/FS Guidance, places emphasis on better focused RI/FSs and the identification of potential remedial actions which can be implemented earlier in the process. The key to this approach is the up-front planning which takes place during RI/FS scoping and which aids in the evaluation of actions which can be implemented quickly to mitigate environmental threats and prevent contamination.

The third analysis, completed in October 1988, focused on the costs of conducting RI/FS work. The study documented the likely reasons for cost growth and recommended initiatives designed to reduce costs by approximately 25 percent, to $750,000 per project. Management steps such as improved training and cost estimating tools are under development. The $750,000 cost goal has been adopted and is reflected in the Agency's fiscal year 1990 budget request.

Question. The Superfund Amendments and Reauthorization Act requires that 275 RI/FS be completed in 1989. How many have been completed to date and will you meet the requirements of SARA?

Answer. Section 116 of the Superfund Amendments and Reauthorization Act of 1986 requires that 275 remedial investigations/feasibility studies (RI/FS) shall be initiated, not completed, within 36 months after enactment. As of the end of March 1989, 269 RI/FS have been initiated. The Agency will meet the mandatory schedule.

Question. What sort of cost savings might we anticipate by speeding up the remedial investigation/feasibility study phase?

Answer. The Agency has placed a high priority on speeding up the remedial investigation/feasibility study (RI/FS) phase in order to enhance both the efficiency and effectiveness of the entire site remediation process. Our efforts have already resulted in cost savings and will continue to do so. Activities intended to streamline the program have enabled the Agency to decrease its cost goal for RI/FS projects by approximately 25 percent, to $750 thousand in fiscal year 1990. The duration of the RI/FS phase has also decreased due to streamlining initiatives. In fiscal years 1987 and 1988, the RI/FS phase lasted, on average, 11 quarters. The projected average for fiscal years 1989 and 1990 is seven quarters; plus one quarter for the Record of Decision.

Question. The Inspector General noted that there were excessive delays in finalizing the results of site inspections and that SI reports were not prepared in a timely or quality manner. In one instance, although the actual SI field visit required just one day, it took 2 years to finalize the results. What are you doing to streamline this process?

Answer. The Agency has made substantial efforts in the past 2 years to standardize and streamline the site inspection (SI) process. These efforts have improved SI quality and timeliness and include the following:

—*Standard Guidance.* In 1988, the Agency issued an overall site assessment strategy document and its first written guidance for conducting Preliminary Assessments. This has resulted in more and better site information being available to conduct any subsequent SI and has contributed to streamlining the SI process.

—*Program Automation.* SI data are used primarily to score sites for the Hazard Ranking System (HRS) model which has technical factors which must be taken into account when the SI data collection plan is developed. The Agency has developed the "PreScore" computer program which performs the calculations of the HRS model. This allows quick sensitivity analysis to focus SI sampling on the most important HRS factors. This will save time and money and result in more nationally consistent, focused, and better quality SIs.

—*PA/SI Field Testing.* In preparation for the revisions to the HRS model, the Agency is conducting an intensive field testing program. This program involves 80 sites in all ten EPA Regions. It will identify the effort and data types needed at each stage of the pre-remedial process. It will also identify ways to maximize the efficiency of SI data collection under the revised HRS. This will ensure that the SI process continues to be streamlined and is of high quality in the future.

—*Improved Management Tracking.* The Superfund data base for tracking site status and progress, known as the Comprehensive Environmental Response, Compensation, and Liability Information System, has been improved. This allows for direct inquiry on relevant SI status information, such as start date, completion date, and decision reached. This improved tracking capability for SI site status will allow Agency management to identify SI delays and to take the appropriate action.

—*State Cooperative Agreement Workgroup.* A new group has been organized in EPA to focus on the quality and cost effectiveness of the pre-remedial work being conducted by the States under cooperative agreements with EPA. This group is made up of very experienced, high level Agency managers from all ten EPA Regions. The group will make recommendations for implementing procedures to ensure that State SIs are of high quality and timely.

SUPERFUND MANAGEMENT REVIEW GROUP

Question. The National Governor's Association recently submitted recommendations at your request on how to speed up the Superfund process. What were those recommendations and do you plan to implement them?

Answer. The National Governor's Association (NGA) submitted its recommendations on improving the Superfund process to the Administrator during the NGA's annual meeting in January. These recommendations focused on two issues: (1) the ability of States to make decisions on clean-up remedies at sites; and (2) the need for

more enforcement activity by the Agency. Since the NGA conference, the Administrator has convened a special 90-day management review of the Superfund program. The study team, which includes the heads of four State agencies and an NGA staff member, will consider the NGA recommendations along with suggestions generated by studies performed by other independent organizations and Agency analyses.

SUPERFUND TECHNICAL ASSISTANCE GRANTS

Question. Late last year Congressmen Markey and Florio commissioned a study on Superfund's technical assistance grants program, which has been the subject of great scrutiny and has been criticized as being overly bureaucratic. I understand EPA is conducting a similar study. Apparently there is a great deal of concern because only four of these grants have been issued. Your study was to be released in March. Did the study remain on schedule?

Answer. As of April 14, 1989, 15 Superfund Technical Assistance Grants (TAG) have been awarded. EPA's study of the TAG program's operation under the Interim Final Rule is currently undergoing its final internal review.

Question. What were the findings?

Answer. The Technical Assistance Grants (TAG) program is unique in both its targeted recipients and function. This has created a tension between our intent to have a simple grant program that complies with Federal grant and procurement regulations and public expectations. We heard many complaints, most of which result from the public not understanding the role of grant and procurement requirements.

Question. How do you plan to alter the grant program so that it is more effective?

Answer. Possible changes to simplify the Technical Assistance Grants program and deal with the other criticisms are now being considered as part of the 90 Day Review of Superfund, and will be made at the end of the 90 days or sooner, if possible.

SUPERFUND MANAGEMENT REVIEW GROUP

Question. I understand that the agency has formed a Superfund management review group to respond to a series of reports including OTA's report on the use of contractors, the House Appropriations HUD/IA subcommittee report, and the report by Clean Sites, Inc. recommending changes to the cleanup and enforcement process. The group is looking at (1) administration and project support; (2) management and implementation, focusing specifically on contractors; (3) overall management of the program; (4) enforcement; and (5) outreach efforts.

What is the status of this group's efforts?

Answer. The Superfund Management Review is due to be completed on May 31, 1989, and is on schedule. In addition to its work with EPA staff in the regions and at headquarters, the review team has conducted extensive briefings and working sessions with industry, environmental groups, contractors, and Hill staff. Two meetings have thus far been held for House staff. On April 20, 1989, review staff held an open session at 2128 Rayburn to which all staff from the House of Representatives with an interest in the Superfund program were invited. The review team will be meeting again with House staff again soon to share with them preliminary findings and conclusions of the study.

Question. In addition to this agency group, there is an industry group which recently came out with recommendations as to how to make the program run more efficiently. Recommendations included appointing liaisons; and creating an EPA/industry technical advisory panel. What is your reaction to the group's recommendations and do you plan to implement any of them? If you do plan to implement them, what is your time frame for doing so?

Answer. The business group proposal has been received by the Superfund Management Review study team and is one of many such proposals we have received in response to requests for ideas and recommendations from the program's external constituencies. Similar proposals have been made by contractors, environmental groups, Hill staff, and other industry groups and all of them—including the industry group proposal noted above—will be carefully reviewed and considered by the review team. Our initial reaction to the above proposal is that it is interesting and it is one way to address the "lack of management consistency" issues we have heard a great deal about from practically all of Superfund's external constituents. Right now, though, the industry group proposal is but one of several alternative ways we have of dealing with the issue. We will be discussing this matter in more detail when we meet again with House staff soon.

Question. The industry group submitted a booklet to EPA suggesting improvements to the Superfund process. They suggested a model RI/FS for a class of sites. What is your reaction to this suggestion—is it too simplistic an approach?

Answer. A broad framework for the remedial investigation/feasibility study (RI/FS) and selection of remedy process has been created through the proposed National Contingency Plan and the development of a number of guidance documents including, but not limited to, the "Guidance for Conducting Remedial Investigations and Feasibility Studies Under the CERCLA" (Directive No. 9355.3-01), the "Draft Guidance on Preparing Superfund Decision Documents" (Directive No. 9355.3-02), and the "Guidance on Remedial Actions for Contaminated Ground Water at Superfund Sites" (Directive No. 9283.1-2). With these guidances now in place, the program's efforts are currently being focused on streamlining the RI/FS process for classes of sites that exhibit similar characteristics. The suggestion made by the industry group in their report is, therefore, currently being implemented and, for certain classes of sites, is not too simplistic of an approach. Examples of these types of sites include municipal landfill sites, mining sites, wood-preserving sites, and battery/lead sites. The Agency is committed to improve the quality of RI/FSs while, at the same time, reducing the time and costs associated with completing them.

Question. The coalition also called for a national clearinghouse on remedies, which would be organized by EPA, industry, and scientific and technical communities. The purpose of this clearinghouse would be to disseminate information about novel remedies or explain how technologies are being implemented at various kinds of sites. Do you think such a clearinghouse is a good idea? Why or why not? If so, do you have plans to implement such a clearinghouse?

Answer. The Agency recognizes the need for information exchange to improve our scientific understanding of site clean-up and the scientific basis on which remedies are selected and implemented in the Superfund program. Several related activities are in-progress and/or under development to achieve this end.

—A computer system has been developed to facilitate access and review of Records of Decision (RODs). The system is entitled the Record of Decision System (RODS) and contains RODs in their full text version. RODS is fully operational and efforts are on-going to maintain the system with RODs as they are completed.

—An abstracted summary of select treatability studies has been compiled for Regional, contractor, and industry use. The abstracts are scheduled for distribution in the spring of 1989.

—A centralized mechanism for compilation and evaluation of future treatability studies is under development. This effort is tentatively scheduled to be implemented in fiscal year 1990.

—The Office of Research and Development has established a national clearinghouse entitled the Alternative Treatment Technology Information Center (ATTIC) which will provide information to EPA, contractors, and industries involved with Superfund activities. ATTIC is a comprehensive automated information retrieval system which will access information from a variety of technical resources including RODS, treatability study abstracts, and the SITE program.

—Five Technology Support Centers have been established to provide technical assistance and to improve communication and coordination in the application of remedial technologies. The Agency is developing a program to be implemented in fiscal year 1990 which will provide increased use of Agency expertise throughout the Superfund process.

SUPERFUND COST RECOVERY

Question. GAO released a report in October 1988 which pointed out that Superfund cost recovery efforts have been limited by accounting system problems and other factors. What is the status of EPA's efforts to develop a new cost accounting system? When will it be operational? How will this system improve EPA's cost recovery efforts?

Answer. EPA has spent considerable time and effort in developing a new accounting system. The financial Management System (FMS), our previous accounting system, was no longer considered adequate for EPA's needs, especially for the Superfund program. For the past 2 years we have been developing our new accounting system, the Integrated Financial Management System (IFMS). In March 1989, IFMS became operational. IFMS provides us with additional accounting capabilities not available under FMS. EPA is now developing a new accounting module in IFMS for cost accounting. EPA is defining its cost accounting needs and developing the cost

accounting module accordingly. EPA expects the cost accounting module to be operational in fiscal year 1990. The cost accounting module will enable EPA the flexibility of capturing financial data in greater detail than was available under FMS. The greater detail available will better enable EPA to classify expenditures for recovery purposes.

SUPERFUND—ENFORCEMENT

Question. How many responsible party settlements were made in fiscal year 1988? How many PRP settlements do you anticipate making in fiscal year 1989 and 90?

Answer. In fiscal year 1988, EPA negotiated more settlements than in any other previous year. This success rate is expected to continue into fiscal years 1989 and 1990. The following is a summary of performance in fiscal year 1988 and of targeted and budgeted goals for fiscal years 1989 and 1990:

Event	FY 1988 actual	FY 1989 curr. est.	FY 1990 budget
Potentially responsible party removals [1]	78	42	56
Potentially responsible party remedial investigations/feasibility studies [1]	48	60	67
Referred to Department of Justice for remedial design/remedial action settlements	26	68	83

[1] Represents first starts only.

Question. The Agency reported in last year's hearing record that it expected to recover $52 million in fiscal year 1988. How much was actually recovered? How much do you anticipate recovering in fiscal year 1989 and 90?

Answer. The Trust Fund received $55.6 million in cost recoveries in fiscal year 1988. The Agency's projections of recoveries to the Trust Fund for fiscal year 1989 and fiscal year 1990 were $70 and $82 million, respectively.

Question. In a 1986 GAO report on Hazardous Waste [GAO RCED-8-123(5/86]); page 315 of Status of Open Recommendations, it was reported that no formal guidelines exist for Superfund project managers to oversee settlement activities and enforce decisions. GAO recommended that the Agency provide project managers with guidance and procedures on workload management; and procedures for oversight record keeping and reporting, determining settlement noncompliance, and taking appropriate enforcement actions.

Please describe how you are responding to this recommendation and when a system to improve responsible party oversight will be in place.

Answer. In May 1988, EPA issued the document entitled "Interim Guidance on Potentially Responsible Party Participation In Remedial Investigations and Feasibility Studies" (RI/FS). This document described: development of enforceable consent orders governing RI/FS activities by responsible parties; procedures for Agency oversight of RI/FS activities by responsible parties; and strategies for Agency oversight of RI/FS activities by responsible parties (Directive #9835.1a). EPA also updated the "Guidance for Conducting Remedial Investigations and Feasibility Studies" under CBRCLA in October 1988 (directive #9355.3-01).

Currently under development are additional guidance and new model administrative orders for removal and RI/FS activities, and a detailed compliance oversight manual for RI/FS performed by responsible parties. This additional guidance is planned for issuance this fiscal year.

Remedial design/remedial action guidance is currently available (directive #9355.0-4a) which outlines general oversight responsibilities. EPA is in the process of updating this guidance to provide a greater level of detail.

We have recently developed an Enforcement Project Management Handbook which is currently under internal review and scheduled to be finished early this summer. Once finalized, EPA will be offering a comprehensive training program for enforcement Remedial Project Managers/On-Scene Coordinators which will include the enforcement process, oversight activities, and utilization of enforcement tools if compliance is not reached.

The Agency utilizes several enforcement tools to ensure the satisfactory oversight and enforcement of responsible parties' remedial work. Once non-compliance with a settlement agreement is determined, various enforcement options can be pursued. These options are codified into the consent decree governing the responsible parties' remedial action. The Agency can also move forward and perform disputed activities with its own resources and seek reimbursement from the responsible parties. To date, we have limited experience with the oversight of, and need to enforce against,

responsible parties' implementation of remedial actions. We have taken the first step by designing enforceable decrees. As we gain more experience, we will implement additional systems.

Question. You told us last year [Sen. Hrgs. p. 739] that an initiative was underway to increase the use of Section 106 judicial actions. Update us on this situation—how many 106 actions were litigated in fiscal year 1988 and how does this compare to earlier years? What do you plan for fiscal year 1989 and 90?

Answer. In the attached table we have provided historical lists of both administrative orders and judicial referrals for injunctive relief. Cases that were referred to the Department of Justice before 1981 under the Resource Conservation and Recovery Act Section 7003 are also included because most of these cases were amended after 1980 to include counts under the Comprehensive Environmental Response, Compensation, and Liability Act Section 106.

If a financially viable Potentially Responsible Party (PRP) does not settle, the Agency generally will issue a unilateral order. If the PRPs do not comply, the Agency will either fund the action or pursue a judicial action. The decision on which action to take includes an assessment of the following criteria: 1) the financial ability of PRPs to conduct the work; 2) the availability of the Fund for the response action; 3) evidence of liability; 4) evidence of an imminent and substantial endangerment; 5) strength of the administrative record supporting the response action; and 6) immediacy of the threat to public health, welfare, and the environment. If the PRPs do not comply with the order and the response is funded, penalties and damages may be sought later in conjunction with cost recovery.

In fiscal year 1988, nine of the fourteen unilateral orders issued resulted in compliance or a settlement; thereby eliminating the need for a judicial referral. The status of the remaining five cases is as follows:

1 Case—Amended unilateral order issued March 22, 1989, respondents have orally conveyed their intent to comply.

1 Case—Unilateral order was to non-settlers for a consent order for remedial design; cost recovery action was referred to the Department of Justice September 30, 1988.

1 Case—Motion to enforce the order was referred to the Department of Justice June 29, 1988. (This case is already a Section 106 case filed in 1983.)

1 Case—Case referred June 29, 1988 to the Department of Justice to enforce the order for injunctive relief.

1 Case—Agency is awaiting the first major deliverable under the order to determine if the PRP is in compliance.

For fiscal year 1989, the Agency has established a goal of at least seventeen unilateral administrative orders and nine Section 106 unilateral judicial actions for remedial design/remedial action. For fiscal year 1990, the preliminary Agency goal is 26 unilateral administrative orders and part of a combined target of 86 remedial design/remedial action referrals, with or without a consent decree. Our present sub target is nine unilateral judicial actions (referrals) for remedial design/remedial action.

SECTION 106 UNILATERAL JUDICIAL REFERRALS

Fiscal year	Injunctive relief for removal action only	Injunctive relief for all other actions [1]	Total
Pre-1980		8	8
1980	5	1	6
1981			
1982			
1983		4	4
1984	1	2	3
1985		2	2
1986		4	4
1987			
1988	3	3	6
1989 (through 2d quarter)	1		1
Total	10	24	34

[1] Includes remedial actions which, in some cases, also includes remedial investigations and feasibility studies and/or removal actions.

Section 106 unilateral administrative orders for remedial design/remedial action

Fiscal year:	Orders issued
1980	0
1981	0
1982	0
1983	2
1984	3
1985	1
1986	5
1987	4
1988	14
1989 (through 2d quarter)	8
Total	37

Source: Comprehensive Environmental Response, Compensation, and Liability Information System and Dockets for the Office of Enforcement and Compliance Monitoring and the Department of Justice.

SUPERFUND CRIMINAL INVESTIGATION ACTIVITY

Question. The budget request seeks level funding of $1.6 million for the Superfund Criminal Investigation activity, an important component of Superfund enforcement. How can increasingly complex enforcement activity increase when funding remains stagnant?

Answer. Criminal enforcement is an important component of the Agency's Superfund enforcement program. However, hazardous waste criminal charges are generally filed under the Resource Conservation and Recovery Act (RCRA) for illegal disposal or dumping and under Superfund for failure to report releases of hazardous substances and for submitting false information on a claim. Therefore, the $1.6 million allocated to the Superfund component for fiscal year 1990 reflects only one part of the Agency's overall commitment to deter future egregious violations of environmental statutes related to hazardous waste disposal.

Criminal enforcement actions involving hazardous waste can be resource intensive and complex. One of the main reasons for the complexity involves considering requirements under multiple environmental statutes such as the Resource Conservation and Recovery Act (RCRA), the Toxic Substances Control Act (TSCA), the Clean Water Act (CWA), the Superfund laws and others. As our criminal case experiences continue to develop, our level of enforcement activity may increase accordingly.

SUPERFUND—REGIONAL OVERSIGHT

Question. The Inspector General found that Regions were not effectively performing their oversight responsibilities. This was attributed in part to a lack of sufficient training and guidance to assist remedial project managers. Have you initiated any training programs to assist remedial project managers?

Answer. The Office of Solid Waste and Emergency Response (OSWER) is involved in numerous training activities aimed at improving the effectiveness of its entire regulatory and enforcement programs. OSWER has just completed development of a course designed for EPA Remedial Program Managers (RPM), State Project Officers, other Federal agencies, and contractors involved in remedial design schedules. The course is entitled, Introduction to Remedial Design Schedule Management. The goal of the course is to provide instruction on the use of remedy-specific and generic remedial design schedules developed by EPA as tools for developing and/or assessing site specific plans and schedules. Included in the course are strategies for expediting and optimizing remedial designs, and techniques for scheduling maintenance, control, and problem solving. The course material is currently undergoing minor revisions and tentative plans are to offer a pilot in June/July 1989. Once the pilot is completed and revisions, if necessary, are made, the course will be offered in the Regional offices.

Another initiative is Work Assignment Management Training for Remedial Project Managers. In recognition of the importance of the contract management responsibilities of the RPM, OSWER has designed a training course aimed specifically at assisting RPMs in exercising their work assignment management responsibilities. This course was designed by a work group consisting of RPMs, Project Officers from six EPA Regions, and personnel from the Agency's Procurement and Contracts

Management Division. The course was pilot tested in December 1988 and is currently being offered in the Regional offices.

In response to several external studies and Congressional hearings that questioned the preparation and retention of the Superfund work force, OSWER and the Office of Human Resources Management are initiating activities focusing on the recruitment, retention, and development of Superfund's hazardous materials response personnel, and On-Scene Coordinators and Remedial Project Managers (OSC/RPM). The centerpiece of these activities is the implementation of an OSC/RPM support program. To improve and maintain the quality of the work force through training, the OSC/RPM Support Program includes the design and delivery of a structured training program, the 0SC/RPM Basic Training Academy. The first Session (Session A) of the Academy will be May 15-26, 1989, at the EPA laboratory facilities in Cincinnati, Ohio. It will focus primarily on Superfund orientation, project management, communications skills, and personnel protection and safety training. Session B, planned for August/September 1989, will focus on site management, contract administration, legal fundamentals, and community relations. Session C, planned for December 1989, will address technical fundamentals, treatment technologies, groundwater, negotiations, risk assessments, and specific regulatory requirements.

Question. Another problem was that Regions often fail to take an aggressive role in assuring the completion of the required cooperative agreement work. How can you encourage Regions to take a more aggressive approach?

Answer. The Agency is concerned about criticisms of State performance and has taken several steps to improve work in this area. EPA is in the process of negotiating Memoranda of Agreement which detail EPA/State roles and expectations. These agreements will clarify Regional/State roles for completing site work. In addition, the Agency has initiated a grant program to provide up to $250,000 to build a program infrastructure in State Superfund offices. We are also carrying out reviews of State capabilities to assume a larger role in the program.

The Agency recently issued new administrative regulations on the procurement of services under Superfund remedial cooperative agreements and we have been conducting response agreement training for both EPA and State personnel.

LEAKING UNDERGROUND STORAGE TANKS

Question. You are requesting $100 million for the LUST program—91 percent more than the current budget, most of which will be passed through to the States. Do you think the states will be capable of spending the additional funds or do you believe there will be carryover funds into fiscal year 1991 if we appropriate the full amount requested?

Answer. Yes, the Agency believes that the States will be able to spend the additional funds. During the first full year of Trust Fund activities, 1988, EPA focused on allocating Trust Fund money to the States to help them build infrastructures and establish basic Leaking Underground Storage Tank (LUST) programs. This includes obtaining the necessary legislative, regulatory and procurement mechanisms to build a core program. Since 1988, the States have become more proficient in their ability to proceed with Trust Fund corrective actions. The States have spent $7.4 million in the first five months of this fiscal year which already exceeds the $7.2 million spent in the previous year and a half of the LUST program.

Therefore, the Agency believes that the States are taking steps to assure that they are ready to oversee and implement corrective actions. The rate of commitment and expenditures has climbed steadily in the past year. The number of sites that need to be addressed with Trust Fund monies will continue to grow. A more detailed analysis of State expenditures from the LUST Trust Fund is outlined in the Agency's March 1989 report to the Appropriations Committees entitled, State Underground Storage Tank Cleanup Programs.

Question. Are leaking underground storage tanks one of your highest risk areas—is that why you are requesting such a substantial increase in this area?

Answer. Leaking underground storage tanks can pose a significant threat to human health and the environment through their sheer numbers, location, and age. Of the approximately 2 million underground storage tanks in the nation, the Agency estimates that between 200,000 and 400,000 are leaking. EPA expects that a large portion of these will be detected in the next 2 years.

The hazards associated with petroleum leaks include physical and environmental risks such as fire and explosion, and contamination of surface water, ground water, soil, and indoor and outdoor air. Petroleum products also contain benzene, a known human carcinogen.

The Agency's 1990 budget request for the Leaking Underground Storage Tank (LUST) program was based on a number of these factors, and also included States' need and readiness to proceed. State capabilities to implement the program have matured as they have hired staff, established procedures, and developed the contractual support needed to address the problem. EPA believes that the States now have the necessary infrastructure in place and are prepared to effectively implement the LUST program. These and other factors are outlined in the Agency's report to the House Appropriations Committee.

Question. If it is not a comparatively high risk area, why are you devoting such an increase to it—GAO recommended in its management review last year that the agency align its resources with its highest risk areas?

Answer. The central focus of the underground storage tank program has been to foster those activities that directly eliminate or reduce risk. The 1990 request reflects the Agency's regulatory and management strategy for achieving this goal. EPA requested small but gradually increasing amounts for the first 3 years of the program, while States improved their capabilities to address the problem and spend the money effectively. Therefore, the budget request reflects a planned management strategy and not a reevaluation of the risks.

Question. How are States dealing with the new LUST regulations—I know in Maryland, for instance, companies were concerned with the financial responsibility requirements—has the issue of unavailability of insurance been resolved? What has been the rate of compliance with the new regulations?

Answer. Many States are adopting the Federal underground storage tank (UST) regulations or are developing their own modified version to address the UST problem. Most States have indicated an interest in receiving formal approval of their State UST program from EPA.

The availability of insurance under the financial responsibility requirements has not been resolved. Most pollution liability insurance currently being written covers very large to medium-sized petroleum marketers; small businesses, particularly those with old tanks and/or existing releases, continue to have difficulty finding affordable coverage, especially from private insurers. As tank owners complete their tank upgrades over the next ten years, the Agency expects financial assurance to become more available to them from private insurers. Further, the emergence of State corrective action and financial assurance funds promises to provide substantial coverage during the next few years.

It is difficult to estimate compliance rates for the Federal regulations because most of the key compliance dates for leak detection, upgrading, and financial responsibility will occur in the future as the regulations are phased in. For example, leak detection requirements will be phased in over the next 5 years (first compliance date is December 1989), and tank upgrading is scheduled over ten years. Financial responsibility is phased in over a two-year period.

Question. The Ashland oil spill in Pittsburgh made us aware of a new environmental concern—above ground tanks. How do you plan to deal with this issue?

Answer. The Oil Pollution Prevention regulation (40 CFR Part 112) requires owners or operators of non-transportation related facilities (including above ground tanks), to prepare and implement spill prevention, control and countermeasures plans. An interagency group was established to review Federal regulatory programs for preventing releases of oil from above-ground storage tanks (ASTs) in response to the Ashland accident. The interagency group developed several recommendations, specifically recommended that the existing regulation be strengthened in areas such as integrity testing and other spill prevention practices, site-specific spill contingency planning requirements, and establishing an AST inventory. EPA is considering these recommendations in its modification of the current regulations. The modifications are happening in two phases.

Phase One will focus on changing oil spill prevention practices from guidelines to required practices. The Agency is also considering a requirement for owners or operators of ASTs to notify EPA of their existence. Phase One modifications are on schedule to be proposed in October 1989. Phase Two modifications will focus on the other regulatory recommendations and will begin, following the completion of the AST inventory, which is proceeding in parallel with the Phase One regulatory modifications.

WATER QUALITY—NONPOINT SOURCE POLLUTION

Question. Funding for section 319 of the Clean Water Act, nonpoint source pollution control activities, is scattered among a number of programs. A total of $100

million is authorized for section 319—how much will be available for nonpoint source activities in fiscal year 1990?

Answer. EPA's fiscal year 1990 President's Budget request will provide a total of $13.3 million for state nonpoint source (NPS) activities. Of this total, $6.3 million is derived from the Title II construction grant appropriation under the provisions of section 205(j) (5). These funds are available to states for the development and implementation of State NPS Management Programs. Additionally, for the first time in 1990, the President's Budget includes a request for $7 million within the section 106 grant to implement approved State NPS Management Programs.

In addition to the NPS funding provided in EPA's budget, the President's fiscal year 1990 Budget also includes a $64 million initiative, mostly in the Department of Agriculture, to address ground water degradation from agricultural nonpoint source pollution.

Question. The fiscal year 1989 budget included an increase of $1 million for Nonpoint Source Management, primarily for technical support to states for their NPS Management program (Sen. Hrgs. p.766). Please describe how these dollars have improved state programs.

Answer. The increase of approximately $1 million for nonpoint source (NPS) management in 1989 is an increase in extramural funds. Virtually all of these funds are being used to support and improve state NPS programs. Approximately 40 percent of the funds have been made available to the EPA Regional offices to develop and disseminate technical guidance for state and local use or to support technical transfer workshops for state and local water quality managers and technical staff. Examples of this type of activity include developing and documenting improved best management practices for range lands (EPA Region 8), developing improved risk assessment procedures applicable to NPS impacts to make possible more effective targeting of NPS controls (EPA Region 10), and developing materials and holding workshops/training sessions for state and local NPS staff in designing effective stormwater management controls and using newly developed NPS analytic models (EPA Region 5).

The remainder of the increase in extramural funds is being spent at a national level to develop tools, methodologies and techniques with more general applicability across the country; the principal users of this technology, however, are states and localities. Examples of this type of activity are a national NPS conference held in St. Louis, Missouri, April 23–26, 1989, to provide states an opportunity to share successful and innovative technology, funding mechanisms and institutional arrangements; partial sponsorship of a national conference on low-input agriculture; development and dissemination of materials and workshops to assist states and localities in educating landowners, land managers and the public about the need and opportunities for control and prevention of NPS pollution; development and dissemination of methods for targeting NPS controls within a watershed to make the most of available resources; and modification of a NPS screening methodology for streams to make it usable for lakes and estuaries.

Question. How successful have states been in implementing Nonpoint Source (NPS) programs?

Answer. Section 319 of the Water Quality Act of 1987 requires each state to submit a NPS Assessment Report and Management Program to EPA by August 4, 1988. To date, 36 states and territories have submitted final NPS Assessment Reports and 23 states and territories have transmitted final Management Programs to EPA. EPA continues to be concerned about the delays in state submittals of 319 documents; however, we expect that by the end of fiscal year 1989 all states will have submitted final NPS Assessment Reports and Management Programs for EPA review and approval.

WATER QUALITY—GREAT LAKES

Question. In the fiscal year 1988 appropriations bill Congress added $1.5 million for the procurement of a new research vessel for the Great Lakes program. Another $3 million was appropriated in fiscal year 1989 for the Great Lakes National Program Office, a portion of which went to the purchase of this boat.

I have been told that after a series of unfortunate events in trying to obtain a vessel, the title to the boat was to be in hand by the end of December 1988. Did this actually occur?

Answer. EPA purchased an offshore supply vessel, the MARSEA 14, from the U.S. Maritime Administration on December 2, 1988. Title was received on January 23, 1989.

Question. What was the cost of the vessel?

Answer. The MARSEA 14 cost $750,000.

Question. How much will it cost to retrofit the vessel and what portion of the fiscal year 1990 request ($9 million) will be earmarked for this purpose?

Answer. The current estimate to convert the MARSEA 14 to a research vessel is $3,750,000. Of the $9 million requested for the Great Lakes program in 1990, $1 million is intended for the installation of toxics monitoring equipment on the research vessel.

Question. When do you expect the boat to be in operation?

Answer. If all goes as planned, the vessel will be operational about the end of 1990 and fully outfitted in 1991.

DRINKING WATER—GROUNDWATER

Question. Groundwater is the primary source of drinking water for more than half of the population. Therefore, the monitoring of groundwater at hazardous waste disposal facilities is extremely important in order to determine if the facility is leaking contaminants into the groundwater.

GAO reported in February 1988 that EPA had not established an effective system to ensure that such data was reliable and recommended that EPA establish controls pertaining the type, amount, and quality of information needed for groundwater decisionmaking. Yet EPA has decided to postpone needed controls. Why? Do you agree that an effective groundwater data system is imperative?

Answer. The primary responsibility for the collection and quality control of groundwater data lies with the States.

EPA has established controls on the type of groundwater data collected in its various guidance documents on groundwater. One such document is the RCRA Groundwater Technical Enforcement Guidance Document, which establishes Data Quality Objectives (DQOs) for protocols to collect groundwater data at hazardous waste sites. In addition, EPA has developed a minimum set of data elements to provide consistency in the collection of groundwater data by EPA, other Federal agencies, and States.

EPA has also established, in conjunction with the Regional offices, a site-specific data base system known as the Hazardous Waste Groundwater Task Force Workstation. This workstation is capable of maintaining a sophisticated array of data for tracking and aiding in the technical decisions made at specific sites.

Many States have established a sophisticated scheme of DQOs and have incorporated many of them within their own program regulations. Many States have also set up extensive site-specific groundwater data bases, since they generally have the day-to-day responsibility for oversite of the various facilities.

Question. A number of programs have developed responsibilities for ground-water protection. Please highlight all activities directed towards ground water.

Answer. Nearly all EPA programs have ground-water protection elements. EPA's Office of Ground-Water Protection oversees the implementation of the Agency's overall framework for ground-water decision-making. This Office also implements the Wellhead Protection Program, the Sole Source Aquifer Program, and the Sole Source Aquifer Demonstration Program under the 1986 Safe Drinking Water Act Amendments. This Office also provides guidance and grants to the states for developing ground-water protection strategies.

EPA's Office of Drinking Water is authorized under the Safe Drinking Water Act to regulate underground injection activities to protect underground sources of drinking water. The Agency's Office of Solid Waste has responsibility under the Resource Conservation and Recovery Act for preventing ground-water contamination from both hazardous and solid waste management facilities. The Office of Underground Storage Tanks aims to develop regulations and support state and local government efforts to prevent ground-water contamination from leaking underground storage tanks. The Office of Emergency and Remedial Response carries out EPA's groundwater clean-up responsibilities under the Comprehensive Environmental Response, Compensation and Liability Act (or Superfund) The Office of Pesticide Programs addresses concerns for ground-water contamination from the use or misuse of pesticides. The Office of Toxic Substances has broad responsibilities for examining and controlling potential toxic chemical risks including those possibly resulting from ground-water contamination.

Question. What are the funding trends for ground-water protection?

Answer. In the early to mid 1980's, there was a rapid increase in funds for ground-water protection aimed, however, mostly at addressing hazardous waste disposal problems under the Comprehensive Environmental Response, Compensation, and Liability Act (Superfund), the Resource Conservation and Recovery Act (RCRA),

and the underground storage tanks program. By far, the greater share of resources have gone toward clean-up activities rather than for efforts to prevent ground-water contamination. Furthermore, the funding was aimed at addressing specific sources of contamination rather than a more comprehensive approach of resource protection.

In 1985, $7 million was added by the Congress to the Section 106 (Clean Water Act) grant for use by states to develop overall ground-water protection strategies. EPA has maintained that level of Section 106 funding for continued development of state groundwater protection strategies since 1985. These state strategies provide a comprehensive ground-water resource perspective for cleanup and protection actions.

The latter half of the 1980's has seen a nearly flat trend in funding for EPA's ground-water protection programs, particularly for the more resource-oriented, as opposed to specific source-oriented,activities. However, the President's fiscal year 1990 Budget includes a $64 million initiative, mostly in the Department of Agriculture, to begin dealing with ground-water contamination from agricultural sources of nonpoint source pollution.

STATE WATER QUALITY AND DRINKING WATER PROGRAMS

Question Although the agency is requesting a total of $134 million for state water grants with increases for public water systems supervision grants (up $7 million to $40.45 million) and section 106 grants (up $16 million to $83 million), recent amendments to the Clean Water Act and the Safe Drinking Water Act greatly increase states' requirements.

EPA's Office of Water estimates states will need $268 million in fiscal year 1994 just to carry out the new requirements; this is in addition to current state spending, estimated at $331 million, to maintain base programs. Termination of the construction grants management set-asides by fiscal year 1994 will result in the loss of about $61 million for states' base program activities. Will the states be able to finance the shortfall?

Answer. States will not be able to finance the entire shortfall themselves under current methods of raising resources for water programs. Both the states and the Office of Water realize this, and we are working with states to support and stimulate their efforts to find additional funds. However, implementation of these new financial efforts will take time.

We should note that the state needs figures quoted in Senator Mikulski's question are the Office of Water's original estimates of the state shortfall. Since we made these estimates,we know the actual Federal funding available for fiscal year 1989 and the proposed budget figures for fiscal year 1990, and have worked with staff of the Association of State and Interstate Water Pollution Control Administrators (ASIWPCA) and the Association of State Drinking Water Administrators to obtain more refined needs estimates from the states. Using the state figures, there would be a need to finance an additional $306 million in water programs in fiscal year 1990; this figure grows to $380 million by fiscal year 1992. (The fiscal year 1992 figures assume no new state funding, Federal section 106 funding equal to the fiscal year 1990 request, and the President's $12 billion phaseout of the construction grant program). Additional state costs in fiscal year 1992 would include $218 million for surface water programs and $162 million for drinking water programs.

Question Are the states adopting any new revenue raising measures to supplement current funding?

Answer. Yes, they are. The new methods include instituting or raising fees for state services, levying specific taxes on products or services, pooling monies from fines and penalties into dedicated reserves to fund specified water program activities, designing monetary management funds to pool revenue streams for growth and disbursement to water programs and, of course, working with legislators and governors' staffs to obtain increased general revenues. In designing new financial mechanisms, states must take into account the fact that over half the state drinking water programs are in Departments of Health as opposed to the Environment, where surface and ground water programs usually reside.

We should note that the answer to the shortfall is not just money—states are trying to save monies by collaborating with other state and Federal agencies, local and county governments and the private sector to provide needed services and pool resources, to institute management efficiencies, and to provide technical assistance to municipalities to alleviate larger enforcement and cleanup costs in the future.

Instituting these new financial and management methods takes time and given the fact that the large shortfall is facing states now, and is growing swiftly, these state efforts cannot fill the financial gap immediately.

Question What is EPA doing to help states overcome this problem?

Answer. One of the priorities of the Office of Water during fiscal year 1988–89 is a State Funding Study designed to quantify the gap facing the states and find ways to help states alleviate the shortfall facing their water programs. The study will end in late spring with a number of products, including an action plan for continuing EPA activities to support state efforts to find additional resources for water programs.

The study has:

—Initially quantified the state needs, available funding, and resultant financial gap and worked with states to refine those estimates.

—Worked with states, state associations and interest groups to support and stimulate state efforts to raise new monies. These efforts include:

- Research on individual state alternative financing mechanisms.
- Resource center and clearinghouse of information.
- Initial survey of financial mechanisms in 11 states.
- Work through EPA's Office of Cooperative Environmental Management with the National Governors' Association in their survey of alternative financing mechanisms for environmental programs in all 50 states.
- Resource paper on kinds of financing alternatives available and the pros and cons of each.
- National workshop cosponsored by six national organizations to accomplish four purposes: 1) articulate the problem for the public, legislators and other important parties; 2) enable states to share information on how to choose and implement financing mechanisms; 3) help create and expand new partnerships between water administrators, legislators and the financial community; and 4) obtain recommendations for how EPA can help states in this financial shortfall.

The study is:

- Researching and working with a Task Force of state and EPA personnel to define criteria for Federal funding of state programs.
- Compiling all the activities to date into a final study report and recommendation for future EPA and state actions.
- Working to increase the partnership between EPA, the states, and other involved sectors to solve the resource problem.

Question If states cannot fund the shortfall, is it likely that states will turn over these programs to EPA? What would be the consequences of such a situation?

Answer. States have indeed told us that they are considering turning back programs, though none have done so to date. Given the magnitude of the resource shortfall, it is possible that a few states may turn back programs, though neither the states, EPA, nor the regulated community want this to happen. More probably, states will decline to take delegation for new programs such as the 404 dredge and fill permit program, or simply be unable to satisfy the new requirements of the Amendments to the Safe Drinking Water and Clean Water Acts. Existing base programs may be eroded as states try to stretch resources to add new programs, with resultant water quality degradation.

DRINKING WATER TRAINING AND TECHNICAL ASSISTANCE

Question. For the first year, EPA is requesting $1 million to support rural water training and technical assistance through the National Rural Water Association. I am concerned about this earmarking of funds. Why shouldn't the very limited funding available for local environmental training be made available on a competitive basis?

Answer. In the past years, the Congress has appropriated $3 million for the National Rural Water Association (NRWA) and the Rural Community Assistance Programs (RCAPs). This year EPA is requesting $1 million to support rural water training and technical assistance through both the NRWA and the RCAPs for fiscal year 1990. EPA believes that the NRWA and the RCAPs have and will continue to provide high quality technical assistance and training to meet the needs of rural community water systems. However, the $1 million is only a part of the funds requested this year to provide small systems' training and technical assistance. A larger amount of funding has been requested to support other local environmental training, technical assistance and education initiatives. These initiatives will be funded on a competitive basis.

Question. I am very impressed by Maryland's Center for Environmental Training, which is located at the Charles County Community College. In 1983 it received $105,000 from EPA and only $5,000 from the State. Today it receives over $285,000 in State funds and only $10,000 from EPA. What are you doing to foster this sort of local/state cooperative effort?

Answer. In March 1986, EPA issued national guidance requiring states to commit to a 25 percent match of their Federal operator training funds. This requirement has been aggressively implemented by many of the states, especially Maryland.

We continue to work very closely with all states to develop effective, coordinated state operations and maintenance, construction grants and compliance programs. EPA has strongly encouraged state training self-sufficiency through publications, conferences, seminars and workshops.

ASBESTOS

Question. You are spending $800,000 in fiscal year 1989 for asbestos contractor and inspector certification and training. In last year's Senate hearing record (p. 781) you stated that 11 states would be assisted with these funds. Is this still true?

Answer. In response to the diversification of the asbestos program, the $800,000 originally budgeted in fiscal year 1989 for asbestos contractor and inspector certification and training grants to the States will be used in part to fund other components of EPA's recommendations in the 1988 Report to Congress on Asbestos Containing Materials in Public Buildings.

Our current plans are to award approximately five grants to States in fiscal year 1989 to increase the number and quality of persons accredited under the Asbestos Hazard Emergency Response Act (AHERA). In addition, the program will provide better technical materials for building owners, managers and workers; institute a new program that focuses on thermal system insulation (TSI) asbestos; and initiate our evaluation of the AHERA schools rule.

The Agency provided more than $2.5 million to about 40 States for contractor certification programs from 1985 through 1987, and another $1 million to 17 States for inspector accreditation programs. As a result, more than 40 States have established some type of certification program for contractors or workers or both. Some of these programs include public and commercial buildings as well as schools. Although a number of these programs are AHERA quality programs, most do not meet all of the AHERA requirements. As a result, the 1990 budget request includes a new $1 million State grant program to assist a sizable number of these States in meeting the AHERA standards.

Question. How many states have initiated asbestos management programs?

Answer. Two States have initiated asbestos management programs for schools that are the full equivalent of the new school regulatory program under the Asbestos Hazard Emergency Response Act (AHERA): Connecticut and Rhode Island. Other States, however, have expressed interest, including Illinois, Louisiana, New Jersey and Utah. We are working with them at the Regional level to encourage and facilitate State program development.

Seven States have asbestos management programs established for State-owned buildings. An additional 16 States implement management plans in State-owned buildings as a matter of policy. These plans generally do not require the same standards as AHERA, but do include some AHERA elements.

Question. How many states have initiated contractor accreditation programs for schools?

Answer. Eleven States have initiated accreditation programs for asbestos abatement contractors, workers, or both, of the quality required by the Asbestos Hazard Emergency Response Act (AHERA). They are Arkansas, Iowa, Kansas, Massachusetts, Michigan, Minnesota, New Jersey, Oregon, Rhode Island, South Dakota and Virginia. In addition, four of these States have established programs for all AHERA disciplines, in accordance with the law. The programs of three additional States—Alaska, Illinois and Washington—have received interim EPA approval enabling previously State-certified individuals to perform AHERA work.

Question. Do you plan to target funds for these purposes in fiscal year 1990?

Answer. We expect many other States to pass legislation and implement programs over the next year, since all States are required by AHERA to have passed legislation creating accreditation programs in schools by July 1989. We do not plan to target funds for these specific purposes in fiscal year 1990.

Question. Last year the Congress provided $100,000 as a grant for training minority contractors in asbestos abatement and disposal. What is the status of that effort?

Answer. The Agency has selected the National Association of Minority Contractors as the recipient of the $100,000 minority asbestos contractor training grant. We expect to award the money within the next two months.

STRATOSPHERIC OZONE DEPLETION

Question. Mr. Reilly, you are requesting a total of $12.6 million for stratospheric ozone depleting activities. This is a drop of $3 million from the current level. Why are you cutting this budget when the President has made it clear that he wants CFCs phased out by the year 2000?

Answer. In FY 1989 the Global Change Division is involved in several activities that are expected to be completed during the year. These activities include the setting up of the domestic program to enforce EPA regulations in compliance with the Montreal Protocol and the completion of four United Nations Environment Program (UNEP) Assessments. These assessments are scheduled to be completed by early fall 1989. The completion of these assessments and the establishment of the domestic program are activities that required funding in FY 1989 but will not need the same level of resources in subsequent years.

Question. Could you outline the components of the EPA program that would fulfill the President's objectives?

Answer. All of the technical work being done by the EPA to replace fully halogenated chlorofluorocarbons (CFCs) and halons with alternative processes and/or chemicals will facilitate a phase-out by 2000. During FY 1990 and FY 1991 EPA's work in this area will include: development of a national recycling program; analysis of mixtures in refrigerators, chillers, and commercial refrigeration; analysis of options to reduce methyl chloroform and carbon tetrachloride; efforts to assist lesser developed countries, particularly the People's Republic of China, make the transition out of CFCs; research on replacements for halons; development of rules for regulating trade from non-participating nations; and assessment of new risks to stratospheric ozone from aerospace activities. In addition, we will be conducting a program of scientific assessments.

Question. What efforts would be necessary to speed up the phase-out?

Answer. EPA believes that 2000 is an ambitious but feasible timetable for the U.S. Meeting this timetable will require substantial progress in the development of safe substitutes for CFCs and halons and will also require large capital outlays and shifts in manufacturing of refrigerators, car air conditioners, and foam products.

Question. Please describe the Agency's efforts to auction off the rights to manufacture CFCs? How might such an auction realize and where would these receipts be deposited?

Answer. While we fully intend to charge market value for the right to produce CFCs, the mechanism—auction or fee—has not been decided. We anticipate either could be structured to raise $400 million in fiscal year 1990. This money would go to the Treasury Department for the benefit of the general public who share the risk of physical harm and who bear the burden of paying higher prices for protection from ozone depletion.

AIR QUALITY—OZONE NON-ATTAINMENT

Question. More than 100 urban areas failed to meet the August 1988 air quality standards for ozone and carbon monoxide. What is the total amount of funding targeted to the implementation of the non-attainment policy in fiscal year 1990?

Answer. Our fiscal year 1990 budget request in support of activities to address ozone and carbon monoxide nonattainment includes 458 total workyears and $56.2 million in contract and grant funds.

Question. Of the regions which failed to meet the August 1988 deadline how many do you project will meet those requirements in fiscal year 1989? fiscal year 1990?

Answer. In response to the Mitchell-Conte Amendment to the Budget Reconciliation Act of 1987, we proposed on June 6, 1988 to designate as nonattainment 66 areas for ozone and 52 areas for carbon monoxide (CO). These were the areas that failed to attain the ozone and CO air quality standards by December 31, 1987 as required by the Clean Air Act. In February 1989, we released a preliminary listing of approximately 30 additional areas that exceeded the ozone standard during the unusually hot summer of 1988. While it is difficult to predict what the weather conditions and resulting air pollution levels will be in 1989 and 1990, we would expect relatively few of these cities to come back into attainment for ozone by 1990. The CO nonattainment problem will continue to improve over the next several years as older motor vehicles are replaced by well-controlled, new vehicles. With no further changes in the current CO control program, national CO emissions will begin to in-

crease in the mid to late 1990's as increased vehicle miles of travel offset the effects of the Federal motor vehicle control program.

Question. You are requesting increases for both stationary source (up $2 million to $18.4 million) and mobile source (up $1.9 million to $9.5 million) enforcement activities. How will these increases be directed to solving the nonattainment problem?

Answer. The $2 million increase requested for stationary source enforcement activities will be used to support the implementation of strategies to address asbestos from demolition and renovation, as well as to ensure credibility in certification of woodstove production lines. While the stationary source enforcement program per se does not include increases related to ozone/carbon monoxide nonattainment, an increase of 4 FTEs and $6 million above the fiscal year 1989 enacted level is requested for other parts of the stationary source program which will be used to provide additional support for development of State implementation plans, emissions inventories and modeling, and control techniques documents.

The $1.9 million increase requested for mobile source enforcement activities will be used to enforce gasoline volatility standards during the summer ozone season and to set up a heavy-duty engine recall program. EPA recently promulgated rules limiting the summertime volatility of gasoline to reduce vehicle emissions of a primary ozone precursor. A small enforcement program will be established this summer with the increased resources provided in the fiscal year 1989 budget. The fiscal year 1990 increase will provide for a full enforcement program in fiscal year 1990.

EPA promulgated more stringent hydrocarbon (HC) and carbon monoxide standards for heavy duty engines which were effective for the 1987 model year. The increase in FY 1990 will provide resources for a heavy-duty gasoline engine recall testing program to determine how well these new standards are being met in use.

Question. You are requesting $99.7 million for Section 105 air grants. a decrease of $1.8 million below fiscal year 1989. Given the number of urban areas which have unacceptable levels of ozone, why do you plan to decrease funding for these vital grants?

Answer. In the current budget environment, the Agency had to make some hard choices among competing priorities. Although we did not request an increase in State grants for FY 1990, we did request increased resources to help provide States with some of the tools that they need to address the ozone/carbon monoxide problem. For example, we did request an additional $2.2 million to begin development of control techniques documents that will help States identify appropriate levels of control technology for sources that contribute to ozone. We also requested an additional $2.8 million (total dollars) to help States develop and improve their plans for meeting the ozone/carbon monoxide standards.

Overall, our fiscal year 1990 request would increase the amount devoted to EPA ozone/carbon monoxide activities by $8 million (total dollars). This includes Federal standards development and other support activities, as well as assistance to States.

COST OF CLEAN AIR REAUTHORIZATION

Question. Mr. Reilly, you have said that clean air is a priority with you. Do you have a sense as to when the administration is going to propose clean air legislation and do you have a ballpark figure as to what the new legislation might cost in fiscal year 1990?

Answer. The Agency is working hard to have the Administration's proposed changes to the Clean Air Act ready in May 1989. We will be in a position to develop cost estimates as soon as the bill is completed.

Question. Will you have sufficient resources to implement the new legislation and if not, will the administration request a supplemental?

Answer. Once the Administration's version of the Clean Air Act amendments is completed, we will be in a better position to determine resource implementation needs.

AIR TOXICS

Question. The agency recently revealed that the amount of toxic chemicals released into the air each year is at least three times what was previously believed—about 2.4 billion pounds of toxic chemicals are released by industry annually. The Clean Air Act requires that EPA list and regulate hazardous air toxics. Yet since this law was established in 1970 EPA has made limited progress in addressing the problem of air toxics. What steps has the agency taken to identify the potential number of chemicals that may need regulating under Sec. 112 of the Clean Air Act?

Answer. In establishing priorities for the assessment of chemicals which are potential hazardous air pollutants, EPA developed in 1986 a systematic approach enti-

tled "The Hazardous Air Pollutant Prioritization System (HAPPS)." The HAPPS provides for a ranking of chemicals based on the available health effects literature and the potential for exposure through emission to the ambient air. Currently over 1,000 chemicals are included in the HAPPS ranking. The HAPPS method has been used to select pollutants for preliminary regulatory assessment under Section 112 of the Clean Air Act. Since 1983 the air toxics program has conducted preliminary assessment on roughly 50 top ranked chemicals. Of these preliminary assessments, the Agency has published notices of intent to regulate on 10 compounds and has found that 17 do not warrant regulation as individual pollutants under the Clean Air Act at this time. Twelve chemicals are presently under assessment and eight have been incorporated into studies of the industry from which they are emitted.

More recently, the air program has expanded the identification program to focus comprehensively on emissions from industrial source categories. The Source Category Ranking System (SCRS) utilizes the health effects scoring system from HAPPS combined with available emission and exposure information, and aggregates scores for individual pollutants across the emitting source category. The purpose of the SCRS, presently under internal Agency review, is to facilitate the selection of source categories for detailed regulatory assessment. The transition from a pollutant to a source category focus is intended to accelerate the assessment process through the elimination of the preliminary pollutant assessment and to focus regulatory development on the most important industrial categories. The SCRS will be used to select source categories for regulatory assessment beginning in the fall of 1989.

Question. Because of the slow progress being made in assessing and regulating air toxics, critics contend EPA needs to change its approach from a chemical-by-chemical analysis to a technology-based approach. Do you agree that a new approach is needed? What action are you considering to speed up to process for addressing the air toxics problem?

Answer. The chemical-by-chemical approach as embodied in the current statute is a major cause of the slow progress in regulating air toxics. The statute would work well for controlling pollutants that are obvious health threats and for which there are clearly defined threshold levels of health effects. The statute does not appear to have been designed for controlling air carcinogens, which are numerous in the air, tend to exist at low concentrations, and have no threshold level for effects (i.e. any exposure to a carcinogen poses some, although possibly small, level of risk to health). For most carcinogens, we now believe that Section 112, as interpreted by the D.C. Circuit Court of Appeals' decision on the vinyl chloride National Emission Standards for Hazardous Air Pollutants, cannot be implemented effectively. By requiring the Agency to define "safe" levels of exposure to carcinogens and to protect public health with an "adequate margin of safety," the statute relies heavily on the uncertain science of quantitative risk assessment. The process has become overly contentious, resource intensive, and subject to repeated litigation. In our view, amendments to Section 112 are needed to provide a less ambiguous and more defensible basis for national regulations. My staff is in the process of evaluating options for amending the Clean Air Act and a proposal is forthcoming.

HAZARDOUS WASTE—MEDICAL WASTE

Question. Last summer many of our shores were polluted with medical waste. EPA plans to implement a demonstration medical waste tracking program. How much do you plan to spend on this effort, what time frame has been established for it, and how many states will participate in the demonstration program?

Answer. The Agency plans to spend 14.5 workyears and $900,000 in both 1989 and 1990 to implement a demonstration medical waste tracking program. The legislated time frame for the demonstration medical waste tracking program is June 22, 1989 through June 22, 1991.

The States had until April 24, 1989 to indicate whether or not they will participate. The Agency expects to have a list of participating States by about May 1, 1989.

Question. What level of participation among the states do you believe is necessary for an effective national tracking program?

Answer. The Agency believes that financial participation of $200,000 to $500,000 per State to be a minimum range for an effective State program. The variables from State to State are the size of the State, the number of generators and transporters, and the level of oversight (i e. the desired approach to enforcement). Assessing the need for, and the feasibility of, a national tracking program are several of the issues that the Agency will be examining in the Report to Congress required in the demonstration.

Question. Does your budget proposal include adequate funds to implement the new Medical Waste legislation? If not, how much is needed, where should it be directed, and how would you propose coming up with the money?

Answer. There are several components of the demonstration program which are addressed below. The Agency has reprogrammed funds from other activities to implement the new medical waste legislation. This level of funding will permit the Agency to develop interim final regulations and implement a two-year demonstration program for identifying, listing, tracking, and reporting disposal of medical wastes in ten States—New York, New Jersey, Connecticut and the seven States contiguous to the Great Lakes.

The regulations list types of medical wastes subject to the tracking system; they also establish a system ensuring that listed medical wastes produced in a demonstration State are tracked from generation to disposal, even if shipped to a State not in the demonstration program. The regulations establish standards that require labeling and packaging of all listed medical wastes.

The Agency will have the full regulatory program in place by May 1989.

With the funds contained in the budget request, the Agency will be able to prepare the required Reports to Congress, analyzing the extent of hazards posed by medical waste, assessing the effectiveness of the tracking program, and providing other information to help Congress decide whether a national program is necessary.

Question. Combined sewer overflows were thought to be the source of medical wastes along East Coast shorelines last year. How much do you plan to spend on CSOs in fiscal year 1990 and what sources, other than the construction grants set-asides, address CSOs? If none, do you believe this is an area with enough risk to the public to warrant additional funds?

Answer. In 1990, we will fund the Marine CSO set-aside at two-thirds of one and one-half percent of the section 207 appropriation. Based on the Agency's request of $1.2 billion for Construction Grants, the total Marine CSO set-aside would be $4 million. In addition, CSOs may be funded by State Revolving Fund programs as provided by Title VI: (1) using directly made available funds from the capitalization grant, through section 201(g)(1)(A), the Governor's 20 percent discretionary set-aside; (2) unlimited use of funds if, as provided under section 201(n) (1), the state has determined that CSOs are a major priority in the state's water quality program; and (3) with state match funds and repayments at any time after first use requirements are addressed.

In addition, CSO corrections may be incorporated in State Nonpoint Source Management Programs or estuary comprehensive conservation and management plans prepared in accordance with sections 319 and 320, and may be funded through appropriations for sections 319 and 320 activities.

RESOURCE CONSERVATION AND RECOVERY ACT

Question. The 1984 Resource Conservation and Recovery Act amendments required that by November 1988 land disposal facilities receive permits. What percentage of RCRA facilities have now been permitted?

Answer. As of March 31, 1989, the Agency had made determinations on 90 percent of the land disposal facility permit applications. Of 280 land disposal facilities in the permit track, 170 have been issued permits and 80 applications were denied. Of the determinations left to be made, some are for new facilities that are on the permit track, and were not subject to the 1988 deadline.

Question. How much are you requesting for RCRA permitting activities in fiscal year 1990?

Answer. The Agency's 1990 budget request for permitting activities is 154.8 work-years and $3,457,200 in extramural funds. These resources would be targeted specifically to fund review of, and determinations on, operating and post-closure permits, closure plan review and approval, and permit modifications.

Question. As part of the permit process EPA is completing corrective action facility assessments (RFAs). If EPA deems that further action is needed, a RCRA Facility Investigation (RFI) will be required. Have RCRA facility assessments been completed for all RCRA facilities?

Answer. The Agency has completed the RCRA Facility Assessments (RFAs) for permitted the Resource Conservation and Recovery Act (RCRA) facilities and a number of closed facilities, but is still in the process of performing assessments at remaining facilities. As of April 1, 1989, 1,391 RFAs had been completed at RCRA facilities.

This year, the Agency is instituting the Environmental Priorities Initiative (EPI). Under the EPI, Superfund resources are being used to perform preliminary assess-

ments at 1,000 facilities per year over a three-year period. These assessments will serve as indications of facilities' environmental significance, and will help EPA to prioritize its corrective action workload.

Question. How many land disposal facilities received operating permits without EPA having completed a RCRA Facility Investigation?

Answer. The Resource Conservation and Recovery Act (RCRA) regulations require that all permits include at least the imposition of a RCRA Facility Investigation (RFI) for those facilities whose initial assessments indicate the need for further study. Of the 170 RCRA land disposal facilities with operating permits, 34 have not had RFIs imposed. Assessments of these 34 facilities indicate that further corrective action steps are not necessary at this time. The Agency is overseeing completion of RFIs at the facilities where an RFI has been imposed.

Question. Is EPA compromising its ability to carry out and enforce the RCRA corrective action program if permits are issued prematurely?

Answer. Permits are one of the vehicles the Agency uses to impose corrective action (using the authorities of the Resource Conservation and Recovery Act Section 3004(u)). The earlier that a facility is permitted, the earlier it becomes subject to corrective action. Permits include compliance schedules for corrective action, which become enforceable once the permits are issued. Also, there are permit modification procedures that authorize the Agency to require additional corrective action, if necessary, after the permit has been issued.

Question. How many years will it take for corrective action cleanups to be completed at permitted land disposal facilities and what are you budgeting for this activity in fiscal year 1990?

Answer. The Agency estimates that corrective action at permitted land disposal facilities requires approximately 4 years from the date the permit is approved. Permit appeals may extend the corrective action by as many as 3 years.

The Agency has budgeted 95 workyears and $8,160,000 in extramural funding for this activity in 1990.

RADON

Question. A recent survey conducted by the consumer interest group Public Citizen found that results from over- the-counter kits to test for radon may be misleading because of poor quality control at the labs that analyze results. In one instance a laboratory had an average error rate of close to 50 percent for kits sent in July and October. This really concerns me. Homeowners who test positively for a certain level of radon are going out and spending thousands of dollars to "fix" what may not be a problem. Do you agree with Public Citizen's findings?

Answer. EPA's guidance for evaluating the potential for radon health risks in a residence, A Citizen's Guide to Radon, recommends that a homeowner first take a short-term "screening" measurement to inexpensively find out whether the potential for a radon problem exists. If elevated levels of radon are detected, longer follow-up measurements are recommended to confirm the screening measurement. The guidance "strongly recommend[s] that [homeowners] make followup measurements before [they] make any final decisions about whether to undertake major efforts to permanently correct the problem." This is similar to getting a second opinion from another doctor before undergoing major surgery. The Agency believes that following this guidance will minimize the likelihood of homeowners performing unnecessary radon mitigation.

Question. Public Citizen believed that Congress should empower EPA to certify radon test kits and laboratories, establish accreditation standards and quality control standards. Do you agree that such a program is needed?

Answer. The Agency believes the current voluntary Radon Measurement Proficiency (RMP) program provides the public and the States with a comprehensive information base on the capability of radon measurement companies, while at the same time affording States the flexibility to implement more formal licensing programs complementary with their other professional licensing activities. EPA is incorporating blind testing for randomly selected companies as an additional quality control measure in this year's RMP program.

Question. Are we doing enough to study the relationship between cancer and radon in homes? An article in the New York Times claimed that no relationship between illness and radon in homes has ever been established in a scientific study.

Answer. The Agency has confidence in its assessment of the health risks of radon. We have epidemiological data based on underground miners testifying to the fact that radon is a known human carcinogen. Several Swedish domestic studies conducted in the 1980's compared individual lung cancer mortalities with location of

residences and found increased risk in homes where high levels of radon were expected. One Swedish study compared individual lung cancer mortality with measured radon levels. It also showed increased risk with elevated levels of radon in residences. The National Academy of Science, in its 1988 report, Health Risks of Radon and Other Internally Deposited Alpha-Emitters, issued by its committee on Biological Effects of Ionizing Radiation (BIER IV), stated, "The committee concluded that estimates of lung cancer risks based on studies on miners can be used to estimate the potential lung cancer risk associated with increased concentrations of indoor radon." The World Health Organization's International Agency for Research on Cancer (IARC) has documented the serious health risks of radon. IARC, in a 1988 report entitled Monographs on the Evaluation of Carcinogenic Risks to Humans: Man-Made Mineral Fibers and Radon, concluded that "Radon and its decay products are carcinogenic to humans." Animal studies support the conclusions of the human studies. Radon is unlike most of the other toxic pollutants that the Agency deals with in that it is one of the few carcinogenic substances for which human risk estimates are based on human data rather than solely on animal studies, as is the case for many of the carcinogens regulated by EPA. However, since no epidemiology studies are perfect, there are still uncertainties associated with precisely estimating risks to men, women, and children.

We believe that the New York Times article to which you are referring was the one based on the results of the study, "An Experimental Test of the Linear-No Threshold Theory of Radiation Carcinogenesis" (unpublished, 2nd draft), by Bernard L. Cohen, PhD. of the University of Pittsburgh. EPA believes that the results of this study are not valid due to serious problems with the study design, treatment of confounding factors, and documentation of the statistical treatment of the data and because of potential sources of bias in the use of radon measurement data and county lung cancer rates.

Question. You are planning to spend $18 million on the radon action program in fiscal year 1990. This is an increase of $8 million—where will the increase be directed?

Answer. The fiscal year 1990 President's Budget includes $8 million for EPA to issue, for the first time, grants to States to assist them in the development and implementation of programs to assess and mitigate radon. State programs funded through these Federal grants will include activities outlined in the Indoor Radon Abatement Act (IRAA) of 1988 such as carrying out radon surveys; establishing radon assessment, mitigation, and control programs; developing public information and educational materials; developing data storage and management systems; operating radon hotlines; and purchasing analytical equipment.

Question. How many states will be eligible to receive the new radon action program grants in fiscal year 1990?

Answer. All States will be eligible for radon grant funding in fiscal year 1990.

Question. The Congress added $1.5 million in fiscal year 1989 for a radon contractor proficiency program and to establish regional radon training centers. What is the status of these efforts?

Answer. The Agency is currently developing an examination and specialized training programs necessary to assess the proficiency of radon mitigation contractors in reducing indoor levels of radon. Contractors who successfully meet the program's requirements will be included in a list of proficient radon mitigators. The contractor proficiency examination and training should be available by the beginning of fiscal year 1990.

EPA is currently soliciting applications from colleges and universities and developing criteria for the selection of sites for three training centers in fiscal year 1989. The centers will provide instruction and information on radon measurement, diagnosis, mitigation techniques, and health effects. A review panel will evaluate training center proposals in mid-May and plans to announce the selected sites and award funds for those centers by August 1, 1989. The Agency anticipates that courses will be available in the Fall.

Question. How many regional training centers do you anticipate establishing in fiscal year 1990?

Answer. As the first centers will not be opened until later this year, the Agency has not yet determined how many additional centers may be established in fiscal year 1990.

TOXIC SUBSTANCES—TITLE III

Question. You are requesting a total of $16 million for Title III activities in fiscal year 1990. This year for the first time the public will have access to information

about what chemicals are being handled in the vicinity. How widely is the data being used? For what purposes?

Answer. The data that EPA has received to date under Section 313 are limited in scope and their validity and accuracy have not been fully verified. Nevertheless, there has been some initial use of the data by various parties. Now that the data can be made available to all interested people, we anticipate a large and diverse body of users.

The states and the Federal Government have made some preliminary use of the data for risk screening, pre-regulatory purposes, and to supplement existing data sources. For example, the Office of Air and Radiation used the data base to detect additional sources of epichlorohydrin air emissions. Environmental groups have also begun to make use of the data; both the Natural Resources Defense Council (NRDC) and the Massachusetts Public Interest Research Group (MASS PIRG) used the data to analyze air quality problems and to identify and highlight particular sources of emissions. Finally industry itself appears interested in becoming a user of the data. This data will provide an incentive for pollution prevention activities that involve source reduction and recycling to reduce the amount of toxic chemicals that are disposed.

As additional data become available, they can become very useful for local emergency planning committees (LEPCs) to make decisions and take actions that will better protect their communities and their neighbors from unacceptable risks.

Question. What has been the rate of compliance with reporting requirements?

Answer. Since the Section 313 compliance program is still in the initial stages of development, it is difficult to state conclusively what the rate of compliance has been. At this time, we estimate that between 55 and 75 percent of the regulated facilities filed reports for the July 1988 reporting cycle, although that estimate is subject to change as we continue to identify the universe of covered facilities more accurately through outreach and inspections.

Inspections to detect nonreporters began in the fourth quarter of fiscal year 1988 and are continuing. Through the second quarter of fiscal year 1989, 328 inspections had been conducted. As a result of these inspections, 39 civil administrative complaints have been issued to facilities for failing to report. Other cases are under review for possible action.

Approximately 18,000 facilities have filed around 74,000 reports. As of April 1, 1989, the Agency had issued 1,070 notices of noncompliance to facilities for reporting errors that prevented the entry of data into the data base.

Question. At this point, do you have information as to the accuracy of the data?

Answer. Based on a pilot study of 25 reporting facilities, indications are that about 80 percent of the release estimates received under Section 313 were in close agreement with our contractor's assessment. Another 17 percent were within a factor of ten. However, these results are not statistically valid and the facilities voluntarily participated in the study, so the results here probably reflect better than average data quality. A full scale project involving 150 to 200 site visits should be completed by this fall and results should give statistically valid indications of overall data quality.

Question. In the budget request, $3 million would be targeted to Title III enforcement efforts, a 53 percent increase. What is the status of the inspection programs under this activity?

Answer. Compliance inspections for Section 313 began in the fourth quarter of fiscal year 1988. The first phase of inspections focuses on nonreporters and is continuing in fiscal year 1989. By 1990 the inspection program will broaden to verifying the quality of information reported. Increased fiscal year 1990 funding will also support the following expanded enforcement program activities: over 700 contract inspections, including those performed by the American Association of Retired Persons Senior Environmental Employment program, development of a computer-based targeting system, and contract litigation assistance to review and organize documents and prepare case summaries.

TOXIC SUBSTANCES

Question. Various statutes require EPA to regulate hazardous chemicals. Since the implementation of the Toxic Substances Control Act and other statutes involve the assessment of toxic chemicals, there may be overlap in the agency's regulatory activities. What systems do you have in place to prevent duplication in your regulatory activities (i.e. in your data gathering or assessment activities)?

Answer. The Agency places high priority on intermedia coordination. The avoidance of unnecessary duplication has been, and remains, a major senior management

concern. During risk assessment activities, the Office of Toxic Substances (OTS) routinely forms a work group and notifies both EPA's Office of Research and Development (ORD) and Office of Policy, Planning and Evaluation (OPPE) of the work group formation. Both of these offices have broad overview responsibilities within the Agency and provide a good vehicle for identifying potential areas of overlap or common concern with the EPA programs. Often OTS directly invites other program offices that have clear involvement in the risk assessment of a particular chemical to join the work group. If the investigation of a chemical goes beyond the early risk assessment phases, an agency-wide work group is formed to assure close coordination during the completion of the risk assessment and during all risk management activities.

The Interagency Testing Committee (ITC) serves as an additional guard against duplication in their recommendations to EPA of candidate chemicals for testing. The ITC consists of eight members from the following agencies: EPA, Occupational Safety and Health Administration (OSHA), Council on Environmental Quality (CEQ), National Institute of Occupational Safety and Health (NIOSH) National Cancer Institute (NCI), National Science Foundation (NSF), National Institute of Environmental Health Sciences (NIEHS) and the Department of Commerce. The information reviews that are prepared to enable decisions on individual chemicals by the ITC include descriptions of testing under way in other programs.

An example of close coordination to avoid duplication occurred during the review of the Superfund Amendments and Reauthorization Act (SARA) section 110 chemicals to set testing priorities. The Office of Pesticides and Toxic Substances worked closely with the National Toxicology Program and the Agency for Toxic Substances and Disease Registry to nominate chemicals for testing; the results of this process were circulated to all of the other EPA offices for review and comment. This process identified potential duplications through examination of testing underway or completed for each of the chemicals.

Duplication in the area of information gathering is of less concern than duplication of risk assessment activities because the Toxic Substances Control Act (TSCA) contains unique authorities in this area, leading other EPA programs to approach OTS for assistance.

Question. What criteria do you use to determine under which statute you should regulate a toxic chemical?

Answer. In general, EPA applies the statute that has the most direct authority to address the risk posed by the chemical. This policy comes directly from section 9(a)(1) of the Toxic Substances Control Act (TSCA):

"If the Administrator has reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture, or that any combination of such activities, presents or will present an unreasonable risk of injury to health or the environment and determines, in the Administrator's discretion, that such risk may be prevented or reduced to a sufficient extent by action taken under a Federal law not administered by the Administrator, the Administrator shall submit to the agency which administers such law a report which describes such risk and includes in such description a specification of the activity or combination of activities which the Administrator has reason to believe so presents such risk."

For the existing chemical program, this means that TSCA is reserved for problems not covered by other authorities or for problems involving multi-media risk in which TSCA is the most efficient statute. For example, chemicals that present risks from occupational exposure that fall fully within the Occupational Safety and Health Administration's (OSHA) jurisdiction are routinely referred to OSHA under either section 9(a) or 9(d) of TSCA. Within EPA, chemicals presenting risks solely from water or air emissions that could be addressed by the Clean Water Act or the Clean Air Act are referred to other EPA offices.

In order to make a referral under section 9(a) of TSCA, EPA must make a finding of more than significant risk—we must make a finding of unreasonable risk. Unreasonable risk requires a finding that the risk of a chemical is unreasonable when that risk is balanced against the effectiveness and cost of risk reduction measures. As a result of this high threshold for use of section 9(a), EPA must invest considerable resources to investigate and analyze potential risk as well as regulatory control options and their economic impacts before a referral can be made. Consequently, many referrals of toxic chemicals to other agencies have been made under the authority of section 9(d) of TSCA; this section provides for general coordination between EPA and other agencies. Section 9(d) is far easier to use in that it does not require an unreasonable risk finding, but it also does not require any formal re-

sponse from the receiving agency. Thus, a toxic chemical could be referred for regulation under another statute, yet action might not be taken.

In the areas of testing and information gathering for toxic chemicals, TSCA provides authority to collect needed information. These authorities allow the use of TSCA as an avenue to generate information for regulatory programs operating under other statutes, and, indeed, test rules and other information-gathering rules are and have been prepared to assist other offices.

In the area of new chemicals, TSCA is used exclusively. TSCA authority addresses all media (including air, water, land, occupational exposure, etc.), and other statutes generally do not have premanufacture authority.

TOXIC SUBSTANCES CONTROL ACT

Question. The Toxic Substances Control Act was passed in 1976. Since that time EPA has regulated only four chemicals (PCBs, Asbestos, Dioxin, CFCs) under section 6 of TSCA. To date, EPA has required testing of less than 50 chemicals. What is your assessment of the agency's progress in implementing TSCA? Are improvements needed?

Answer. Section 6 of the Toxic Substances Control Act (TSCA) is one of several risk management options provided by the Act for addressing existing chemicals. To date EPA has issued twenty separate final rules under section 6 of TSCA. Fifteen of these rules address PCBs, three address asbestos, and one each address dioxin and CFCs. Other TSCA risk management actions for existing chemicals include Significant New Use Rules (SNURs) under section 5(a) and referrals to other agencies under section 9(a) and 9(d) of TSCA. In addition, EPA has issued nine chemical advisories for existing chemicals.

EPA's Office of Toxic Substances (OTS) is currently actively pursuing examination of 31 existing chemicals to determine if risk management action is needed. We have identified an additional 13 chemicals as candidates for risk assessment. EPA has issued 25 test rules on chemicals for which we are now awaiting test data, and has proposed an additional 65 rules.

The Existing Chemical Review Process often deals with chemicals that have well-established and major roles in the economy. To place significant restrictions via TSCA on the use or manufacture of chemicals basic to the operation of the American economy requires EPA to perform extensive analyses of options and impacts. Likewise, because we are often dealing with existing chemicals that are used in large volumes and consequently can result in exposure to large numbers of people, great care must be taken to consider health and ecological effects at low levels of exposure and to analyze most of the pathways that can contribute to exposure. Consequently, to arrive at and support a balanced decision of unreasonable risk," as required by TSCA to issue a section 6 rule or a section 9(a) referral, requires a significant investment of EPA time and resources.

It has been clear to OTS management that the past level of accomplishment of the existing chemical testing and regulatory programs are inadequate. To improve performance, major evaluations have been done of both the existing chemical and chemical testing programs. Significant policy and procedural reforms are being implemented in both of these programs to improve productivity. We believe that these reforms will do much to improve the number and timeliness of decisions. However, decisionmaking on existing chemicals will necessarily continue to be a time-consuming process under TSCA because of the analytical and procedural rigor with which the work must be carried out.

Question. Has the agency developed goals or milestones for its TSCA program in terms of the number of chemicals to be regulated or tested? If not, why?

Answer. The Agency's goals for the regulation of chemicals under the Toxic Substances Control Act (TSCA) do not include establishing a target number of regulations to be issued. Under most provisions of TSCA, EPA can only regulate chemicals based on a finding of unreasonable risk. Yet, the Office of Toxic Substances (OTS) cannot determine at the beginning of a risk assessment or risk management review whether a chemical will constitute an unreasonable risk, nor can it determine early on which risk management option under TSCA might be appropriate. Available options include regulation under section 6(a) for an existing chemical or 6(b) to require quality control of an existing chemical, formal section 9(a) or informal section 9(d) referral to another agency or EPA program, a significant new use rule, and risk communication. The main job of OTS is to characterize the problem and the possible solutions and then select the most appropriate response under TSCA. In many cases, the best option will not involve a formal regulation under TSCA.

In the past the productivity of the Existing Chemical Review Program has been less than satisfactory, in that EPA's review and option selection process has been completed for few chemicals. Even fewer chemicals have been subject to regulatory action, but this represents appropriate selection of non-regulatory options for the other chemicals. Reforms of the program have been implemented, and under these reforms we are placing emphasis on getting the maximum number of chemicals through the review process as quickly as possible within the constraints of our resources. A strong planning and tracking system is being used to reinforce management's goal of making decisions early in the review process and maximize productivity (i.e. the number of decisions made and not the number of chemicals regulated). We believe that this approach will result in the maximum number of chemicals reviewed for potential regulatory action; as a consequence, it will also result in the maximum number of section 6 regulations for chemicals where these regulations are appropriate. Currently thirty-one chemicals are undergoing risk assessment or risk management review in the program.

There is not a fixed goal for numbers of test rules either. Testing recommendations come to OTS from the Interagency Testing Committee (ITC), from OTS risk assessment activities, and from other EPA offices. The ITC is mandated by TSCA and is composed of members from eight agencies. Twice a year it makes formal recommendations to EPA of chemicals to be tested; the number of chemicals and chemical categories varies from a few to as many as fifty. OTS reviews the recommendations and determines which of these chemicals merit testing through the development of section 4 test rules. The threshold for test rules under TSCA is high and so not all of the ITC's recommended chemicals are appropriate for testing under TSCA.

The goal of the testing program under TSCA is to deal appropriately with all of the recommendations from the ITC, from OTS activities, and from other EPA offices: if a test rule is justified under TSCA, one should be written. Test rule development requires significant analytical costs as well as rulemaking activities, and so the process is neither quick nor inexpensive. Because of this, there may be many ITC recommendations or referrals from other offices that will never become test rules. The timeframes required for the development of a test rule, approval of testing protocols, and the eventual receipt of the test data are often too lengthy to fit within the regulatory decision schedules of other parts of the Agency. For this reason, other programs do not avail themselves of the TSCA testing authority as much as they could.

SUBSTITUTES FOR CFCS

Question. One of EPA's responsibilities is to ensure the safety of chemicals used in commerce. GAO reported in February that EPA has not taken sufficient steps to ensure the safety of possible CFC substitutes. Apparently the substitutes contain substances that have not undergone agency review for toxicity. How does EPA plan to fulfill its Toxic Substances Control Act oversight responsibility with regard to these potential CFC substitutes?

Answer. EPA intends to exercise its responsibilities under the Toxic Substances Control Act (TSCA) to assure that adequate data are developed and any risks are identified.

EPA is currently undertaking a search and review of the available information on CFC substitutes to assess their potential toxicity to humans as well as their effects on the environment. EPA is also assessing the anticipated human exposure and environmental releases that may result if chemicals are employed in large volumes as CFC substitutes. In order to assure that it has access to all available information, EPA is requiring the submission of available data under the Clean Air Act (CAA) section 114. In addition, EPA intends to issue rules under sections 8(a) and 8(d) of TSCA to supplement information submitted.

Under section 114 of the CAA, EPA can issue a written request to producers, manufacturers or processors to obtain any and all data pertaining to an existing chemical substance, and for new or increased uses of that substance. This includes health and safety data, production data, information on testing, information related to use, exposures, and any other items that the Agency deems necessary in order to determine whether regulations are warranted. The agency has issued several section 114 letters within the past 2 years to obtain data on CFCs and halons, and substitutes for these chemicals. Furthermore, under the Memorandum of Understanding (MOU between OTS and the Office of Air and Radiation (OAR), (mentioned in the General Accounting Office report), a process exists whereby OTS will evaluate the hazards of CFC substitutes.

If more information is needed, EPA will use its authority under TSCA section 5 or TSCA section 4 to require that the necessary data are produced. EPA is also evaluating the merit of other actions under TSCA, for example the possibility of using a Significant New Use Rule under section 5 of TSCA to require the submission of notification of certain uses of CFC substitutes.

In considering the use of its regulatory authorities, EPA must ensure that it does not unduly impede research and development activities for CFC substitutes. Should significant risks be identified, EPA intends to use its authorities under TSCA and other statutes to assure that they are adequately controlled.

RESEARCH AND DEVELOPMENT

Question. You are requesting an increase of $34.6 million in your research and development budget for a total of $422 million.

Last fall the Science Advisory Board issued a report on the Agency's research programs, called "Future Risk: Research Strategies for the 1990's." The report calls for "expanded testing of human blood and tissue for pollutants, and renewed efforts to study the frequency and distribution of environmentally related illnesses in the human population."

The National Adipose Tissue Survey which was started in 1967 by the Public Health Service is the only study which measures the affect of pollutants on human tissue. How much do you plan to spend on this study in fiscal year 1990?

Answer. In fiscal year 1990 the Agency plans to maintain the same funding level of $900 thousand to support maintenance of the National Adipose Tissue Survey.

Question. Given the SAB's recommendation, why are you level-funding this program?

Answer. The National Adipose Tissue Study is currently undergoing review by the National Academy of Sciences (NAS). The NAS Panel on Human Monitoring is expected to complete deliberations on the Program in early fiscal year 1990 and the final report containing recommendations is expected to clear NAS' extensive internal and external review by September 1990. Once recommendations have been received on the Program, decisions on continued funding will be addressed.

Question. EPA has contracted with the National Academy of Sciences to conduct an evaluation of the National Adipose Tissue Survey. What is the status of the evaluation and when will it be completed?

Answer. The National Academy of Sciences (NAS) Panel of Human Monitoring has begun their review of the Office of Toxic Substances (OTS) Human Monitoring Program to make recommendations concerning the usefulness of the program. In January 1989 NAS coordinated a public workshop, at which invited experts offered opinions on human monitoring. A report summarizing the workshop was prepared and submitted to OTS in late March 1989.

The NAS Panel is expected to complete their deliberations on the program in early fiscal year 1990, and the final report containing recommendations is expected to clear NAS' extensive internal and external review process by September 1990. Once recommendations have been received on the adipose program, decisions on continued funding will be addressed. The Agency is committed to reviewing the NAS study when it is available and considering the recommendations carefully in developing an effective human monitoring program.

Question. Another Science Advisory Board recommendation concerned the need to improve environmental monitoring efforts. How do you intend to implement this recommendation and what resources do you plan to devote to it in fiscal year 1990?

Answer. Our budget request provides for increased ecological monitoring and trends research (the Environmental Monitoring and Assessment Program (E-MAP)). The goals of the E-MAP Program are to establish, on regional scales, the baseline condition of ecological systems and pollutant exposures to these systems. Through periodic resurveys of the condition of ecological systems, we will improve our ability to identify the magnitude (both improvements and degradation) and location of changes that may occur to ecological systems. This program is an interagency effort to take full advantage of other Agency expertise and environmental monitoring systems. The total budget request for the EPA's E-MAP Program in fiscal year 1990 is $8 million.

Question. Your budget (8–5) proposed $18 million for a new study on ecological trends. Please describe the activities you plan to undertake with these funds.

Answer. The $18 million request for fiscal year 1990 is for two initiatives—ecological monitoring and trends research (E-MAP) and basic ecological research. Specific activities related to these two initiatives are in the developmental phase. Our re-

quest would provide for an integrated, interagency ecological research program which will involve:

—A national-scale monitoring program to define baseline conditions of major ecosystems (e.g. forests, estuaries, wetlands, lakes, streams, and agricultural systems) and to quantify changes over time;

—A report on the findings of the monitoring effort; and

—Research on the probable causes for the changes observed.

For the funding proposed in fiscal year 1990, the major emphasis will be on near-coastal estuaries and wetlands; working cooperatively with the National Oceanic and Atmospheric Administration and the U.S. Fish and Wildlife Service.

USE OF CONTRACTORS AND CONSULTANTS

Question. As you know, Senator Pryor has been very concerned with the use of contractors throughout the Federal Government. He held a hearing recently on EPA's use of contractors which revealed some significant problems. He has suggested that we reduce EPA's spending for consultants and contractors by 5 percent. How do you respond to this proposal?

Answer. The Agency relies heavily on contractors to assist us in carrying out our environmental mandates. We are conscious of the importance of maintaining agency control and not becoming overly dependent on contractors. We're taking a hard look at this issue right now. However, an arbitrary, across-the-board percentage cut in our contracting budget would threaten undue disruption to many of our vital programs.

It's important to understand that contractors provide essential support to the Agency in our development of regulations. Ultimately, arbitrary budget cuts would be offset with increased agency resources if we're to continue carrying out our environmental programs.

Question. If cutting spending for contractors isn't a good idea, what is—how do we deal with this problem? What controls are you implementing to assure that consultants are not being used to perform inherently governmental functions such as writing regulations?

Answer. We do not agree that the Agency has turned over inherently governmental functions to contractors. Some of the anecdotal examples that have been given ignore the Agency direction, oversight, and review given contractor work throughout a project. This paints a very misleading picture. What is clear, however, is that we have a disturbing credibility problem that we must address in our management of contractors.

Question. GAO released a report in February which found that EPA is not adequately assuring that contractors are complying with conflict of interest requirements in the Superfund program. They recommend several steps the agency should take to strengthen its conflict of interest system under Superfund. Are you planning to implement GAO's recommendations? Please elaborate.

Answer. Yes, we will implement all of the GAO recommendations. The GAO has correctly observed that our current procurement strategies, designed to increase the number of firms in our contractor base, will increase the potential for conflicts of interest in the future. We are currently designing a program to deal with this concern. The key step we are taking is the development of an Agency policing capability to ensure that contractors are complying with our conflict procedures. We are also developing clearer conflict of interest guidance to Agency employees and contractors. Finally, we are requiring contracting officers to more thoroughly document their conflict of interest determinations. These steps will implement all of the GAO recommendations.

Question. In last year's hearing record the agency reported that 85 percent of EPA's contract support was provided through cost-reimbursable contracts. Since fiscal 1983 this percentage has remained at between 85 and 90 percent. However, in a January 1985 GAO study it has found that a portion of work being performed under cost-reimbursable contracts was suitable for fixed-price contracts which would lead to cost savings. Has the percentage of cost reimbursable contracts fallen below the 1987 level? If not, why?

Answer. The percentage of cost-reimbursable has not fallen below the 1987 level. This is because the nature of the Agency's contract support needs has not changed significantly in recent years. The Agency's requirements are generally short term in nature, and must be performed quickly. Our approach has been to award contracts for a level of effort over a set period of time. When a task can be defined, a work assignment is issued for its completion. Even at this point tasks are not suitable for fixed price contracts. Work assignments are subject to frequent changes in direction

and approach during performance. Fixed price contracts require that uncertainties in performance be kept to a minimum in order to establish a fair price for the work.

In addition, the Agency issues thousands, probably tens of thousands, of work assignments in a year. The lead-time and resource intensive nature of competing these tasks individually make it impossible for the Agency to perform its mission effectively.

Question. In March 1985 the agency initiated a contract management improvement program. Last year you reported that 55 work-years were devoted to the task of contract management alone. What specific improvements have been made in the contract management area and what savings have been made?

Answer. We have increased the resources available for overall contract management. Three procurement sections at Headquarters are responsible solely for contract management. Cost policy and financial monitoring personnel are fully dedicated to contract management. Other groups such as regional contracting officers and review staff perform contract management or oversight functions as a substantial part of their duties and responsibilities. More than 85 FTEs perform those functions. An additional 10–15 FTEs reside in our other major contract operations in Research Triangle Park, N.C., and Cincinnati, Ohio. As a result of a comprehensive study on EPA project officers, program offices are placing increased emphasis on the importance of project management.

We are pleased to report that financial monitoring reviews led to cost recoveries totalling approximately $1.6 million in such areas as advance billing or subcontracts, computer billings, adjustments of labor costs, and billings for luxurious travel by contractor personnel.

In addition, we are developing and should have operational soon an automated contractor data base to retain cost and billing information for EPA's major contractors. Both contracting officials and program officials initiated several other improvements in contract management. We placed additional contracting resources in regional offices to improve accessibility to program personnel and increase timeliness in processing post-award contract actions.

Reviews of contract management practices resulted in more timely processing of award fees, submission of more detailed cost information from contractors to facilitate tracking of expenditures, establishment of tracking systems to reduce the potential for unauthorized work and to monitor ceilings on hours, funds and other direct costs, and increased awareness by program offices and contractors of the possibility of duplication of effort.

We have updated existing training materials to emphasize such areas as directed subcontracting and performance of unauthorized work. We have also developed and are presenting specialized training courses in contract management.

INSPECTOR GENERAL—TRAVEL FUNDS

Question. Mr. Martin, I understand you traveled to Hong Kong in November 1987 to attend an international crime conference. How much did you spend altogether on this trip?

Answer. John Martin's acceptance of the Independent Commission Against Corruption invitation to attend and give a presentation at the third annual Anti-Corruption Conference in Hong Kong, cost $3,409.14.

Question. What exactly was the purpose of this trip and how did the agency benefit from the trip? What did this trip have to do with fraud and abuse in EPA?

Answer. John Martin represented the United States along with law enforcement officials from the FBI, Department of Agriculture, Internal Revenue Service, Department of Energy, Agency of International Development, Department of State, Department of Defense and other organizations at the third annual Anti Corruption Conference sponsored by the Independent Commission Against Corruption. The purpose of the conference was to stimulate global exchange of knowledge and expertise concerning anti corruption investigations and to further the development of personal relationships and liaisons between the top officials of law enforcement agencies who do this type of work. The international nature of crime in general, and the increasing global influence of the EPA programs and enforcement actions specifically, requires a greater need for international cooperation, coordination, and reciprocity between law enforcement organizations. In just the last year alone, the EPA OIG reported to Congress on significant work concerning the exportation of hazardous wastes, the importation of toxic chemicals, and the importation of gray market vehicles that violate U.S. emission and safety standards. This conference focused on combating corruption in government organizations, which is exactly the mission of the Inspector General's office.

Additionally, John Martin was invited by the Organization Conference Committee to make a presentation to the over 250 delegates representing 32 countries concerning the functions of the Inspectors General of the United States. Information about the conference was later reported in the Inspector General's Semiannual Report to Congress and the EPA Times.

Question. I understand that shortly after this conference, you issued a memorandum restricting travel funds. Who was affected by this restriction and how did that affect the quality of their investigations?

Answer. John Martin did not issue a memorandum restricting travel funds in the Office of Inspector General following the November 1-6, 1987 above mentioned conference. However, a travel slowdown was imposed by the Office of Investigations on February 24, 1988 limiting all travel involving S&E funds except for situations requiring support for grand jury or trial preparation. During the limited restriction of travel, investigators were ordered to spend the time catching up on writing their investigative reports so quality of the investigations that were in process during the first quarter of the fiscal year was not affected by the limited restriction in travel.

Due to delays in passage of EPA's fiscal year 1988 budget, the actual amount of funds available was unknown at the beginning of the fiscal year and actual expenditures were limited to 80 percent of the prior years allocation. Also, several meetings which required the attendance of all field managers for operational planning during the first quarter and larger investigative expenditures than anticipated made it apparent at the beginning of the second quarter, that total travel expenditures exceeded the first quarter allocation. When Headquarters queried the field divisions on the status of their budgets, it was discovered that several were not accurately tracking their travel expenditures. When a new automated travel tracking system was put into use to improve the accountability of our divisional travel funds, it became apparent that the actual amount being spent was different than the recorded amount because of data entry errors and failure to deobligate funds on trips that actually cost less than their original obligations.

The Deputy Inspector General requested that the Office of Investigations come up with exact figures to determine the status of their travel expenditures and on February 24, 1988 a travel slowdown was ordered while field management and Headquarters worked together to reconcile travel records for the first half of fiscal year 1988. As a result of this reconciliation, it was determined that the aggregate spending by all of the Office of Investigations was $4,659.52 under its cumulative second quarter ceiling, although two divisional offices had considerably overspent their budget.

Along with the reconciliation, an analysis was begun of projected travel expenditures for the remainder of the fiscal year which showed that expected expenditures would be far above the entire fiscal year travel budget for the Office of Investigations. The reconciliation also showed that, members of the Office of Investigation field divisions were traveling at a rate during the first quarter that could not be sustained by the Office of Investigation travel ceiling for the remainder of the year. As a result, field divisions were advised to prioritize their cases and concentrate their effort on the highest priority investigations for the remainder of the year.

Question. How much are you requesting for travel in 90? How do you plan to spend those funds? Will you be attending an international crime conference again this year?

Answer. The President's budget for the Office of Inspector General, Environmental Protection Agency, is requesting $1,798,000 for travel and transportation of persons. The Office of Inspector General is mandated by the Inspector General Act to conduct audits and investigations, and promote economy efficiency and effectiveness throughout all EPA programs and operations, including program participants, contractors, and those reporting to or doing business with the Agency. The ability of the OIG to collect and evaluate information, detect deficiencies or wrongdoing, and prevent possible fraud waste and mismanagement strongly depends upon its timely presence at geographically dispersed locations.

In fiscal 1990 the Office of Inspector General will need the requested level of travel funds to continue performing internal and management audits, construction grant audits, contract audits, and Superfund audits. Management audits strengthen internal controls, improve operating efficiency and effectiveness, and ensure that maximum environmental benefits are achieved with existing EPA program resources while construction grant audits have produced $17 of sustained costs for recovery for every dollar invested. In fiscal 1990 additional audit work supported by travel funds will focus on the $29 billion of construction grants that remain unaudited, the emergence of the State Revolving Funds designed to replace construction grants entirely, and the Superfund program.

In fiscal 1990, travel funds are particularly needed to support a serious law enforcement effort. During the past several years the focus and success of our criminal investigations changed dramatically from cases of employee integrity, requiring relatively little travel to complex, high impact cases such as bid rigging, conspiracy, and product substitution involving geographically dispersed persons and firms. The success of these cases depends on participating with other Federal, State, and local law enforcement agencies and assisting U.S. Attorneys for which travel is a necessity.

Without the travel funds requested for fiscal year 1990 to support this effort, the 0IG will be severely restricted from pursuing timely evidence for prosecution or administrative or civil remedies and precluded from opening or completing many priority cases. To carry out a viable investigative program, OIG agents should spend about 40 percent of their time traveling to locations beyond their commuting area. Under current budget limitations investigators can spend only about 14 percent of their time traveling. In addition, the expansion of emergency Superfund actions, which by their nature are particularly vulnerable to fraud, create yet greater future demands for timely, onsite investigations. John Martin will not be attending an international crime conference this year.

Question. Finally, I understand that you traveled to Puerto Rico and the Virgin Islands in March of 1987 and Again in November of 1988 to inspect sewer plants. Please explain why it was necessary to make this trip twice in a year-and-a-half? What kind of fraud and abuse is going on at these sewer plants in Puerto Rico and the Virgin Islands?

Answer. The Office of Inspector General has conducted several significant construction grant audits of both the Puerto Rico Aqueduct and Sewer Authority and the Virgin Islands Department of Program Conservation and Cultural Affairs and Departments of Public Works. We reported in the Office of Inspector General Report to the Congress for the period ending September 30, 1986, "Almost Half a Billion Dollars Wasted on Faulty Projects in Puerto Rico." After hundreds of millions of Federal dollars were spent over 21 years, procrastination, poor internal controls, and lax enforcement have prevented Puerto Rico's wastewater management program from achieving an acceptable level of water pollution control. In our Semiannual Report to the Congress for the period ending September 30, 1987, we reported that "Puerto Rico Fined $32 Million for Violating Clean Water Act as Problems Continue". A year after our initial review, the Puerto Rico Aqueduct and Sewer Authority (PRASA) had not improved the operation and maintenance of its wastewater treatment facilities. A significant number of its facilities remained in violation of the February 1985 consent order resulting in the United States district court fining the Authority $32 million. As a result of this follow up review to determine the status of deficiencies previously reported, a landmark agreement between PRASA and EPA was reached during John Martin's second trip to Puerto Rico. John Martin met with representatives of the financial community and PRASA regarding this agreement.

Also in that same Semiannual Report to Congress we reported on "Poor Performance and Ineffective Management in the Virgin Islands Programs". The Virgin Islands agencies lacked the expertise, organization, accounting systems and management to achieve their environmental goals. In both audits we made strong findings and recommendations which grew out of inspection of problem projects and later of followup actions by John Martin and staff who met with top government officials in both jurisdictions to review and encourage their improvement plans.

Question. Please provide a list of all travel taken by the Inspector General during fiscal years 1987 through 1989. How does the IG's travel during those years compare to that of other IG's from agencies of comparable size and regulatory responsibility?

Answer. We are not in a position to know what the travel of other Inspectors General has been. However, we do not believe that a direct comparison can be made since each agency has a unique mission, and a variety of different programs and actions are necessary to address their particular mission. John Martin's travel for fiscal year 1987 through 1989 is listed below:

FISCAL YEAR 1989

October, Lexington, Kentucky, attend EPA Regional Administrators Meeting; Portland, Oregon, attend International Association of Chiefs of Police Conference with EPA IG Exhibit; Dallas, Texas, meet with Office of Inspector General staff and speak at Association of Government Accountants meeting; San Francisco, attend Office of Inspector General meeting; November, San Juan, PR, inspect sewer plants; St. Thomas, VI, meet with EPA, Territory, and Commonwealth officials and Gover-

nor; February, New York, to meet with OIG staff; March, Boston, to meet with OIG staff; Philadelphia, to meet with OIG staff; April, Glynco, GA, to attend board meeting of Law Enforcement Training Center.

FISCAL YEAR 1988

October, New York, meet with Office of Inspector General staff and inspect city water supply system; Glynco, GA, attend board of directors meeting, Federal Law Enforcement Training Center; Toronto, Canada, attend International Association of Chiefs of Police Conference with EPA IG Exhibit; Hong Kong, attend Third International Anti-Corruption Conference and deliver address; November, New York, meet with Office of Inspector General staff and attend meeting of Law Enforcement Association Foundation; December, Dallas, Texas, attend Office of Inspector General meeting; February, Philadelphia, meet with Office of Inspector General staff; March, Atlanta, meet with Office of Inspector General staff; Boston, meet with Office of Inspector General staff; April, Glynco, GA, attend Board of Directors meeting, Federal Law Enforcement Training Center; June, Oak Ridge, TN, speak at Office of Personnel Management Executive Seminar.

August, New York, meet with Office of Inspector General staff; New York, testify at Congressional Hearing; September, Philadelphia, meet with Office of Inspector General staff and the FBI; Juneau and Anchorage, Alaska, meet with State & EPA officials on EPA programs and audits; San Francisco, meet with Office of Inspector General staff; Sacramento, speak at Association of Government Accountants meeting; Atlanta, meet with Office of Inspector General staff; Glynco, GA, attend Board of Directors meeting, Federal Law Enforcement Training Center.

FISCAL YEAR 1987

October, Glynco, GA (2 trips), attend Board of Directors meeting, Federal Law Enforcement Training Center and speak on Law Enforcement Panel; Nashville, TN, attend International Association of Chiefs of Police Conference with EPA IG Exhibit; Atlanta, GA, meet with Office of Inspector staff, attend Regional Administrator's meeting; Hartford, CT, speak at executive briefing; November, Kansas City, MO, and Dallas, Texas, meet with Regional Administrator and Office of Inspector General staff; December, New York, attend training course; Philadelphia, meet with Regional Administrator and Office of Inspector General staff.

February, New York, meet with Office of Inspector General staff; Baltimore, MD, attend EPA Senior Management Forum; Columbia, MD, attend Meeting of President's Council on Integrity and Efficiency; March, Providence, RI, speak at New England Intergovernmental Audit Forum; San Juan, PR, inspect sewer plants; St. Thomas, VI, meet with EPA, Territory and Commonwealth officials and Governor; April, Shepherdstown, WV, attend EPA Regional Administrators meeting; Glynco, GA, attend Board of Directors meeting, Federal Law Enforcement Training Center; Seattle, WA, and San Francisco, CA, meet with Office of Inspector General staff, speak at meetings of Association of Government Accountants; May, Hedgesville, WV, attend Office of Inspector General meeting; June, New York, inspect New York City water and sewer facilities and meet with Office of Inspector General staff; September, Chicago, IL, meet with Regional Administrator and Office of Inspector General staff; Charlottesville, VA, attend meeting of President's Council on Integrity and Efficiency.

EPA FACILITY

Question. The Agency is hoping to construct a new building on a site other than its current location within the next few years. What is the status of your relocation plans and how do your own internal projections, both in terms of size and cost, on what you need in a new building differ from GSA's?

Answer. EPA has been presented with an opportunity to move from three dispersed and inadequate locations into a consolidated facility of adequate size and quality. A concerted planning effort is underway to assure our new facility corrects obvious workspace deficiencies. We have achieved some progress in that regard, most notably congressional authorization for GSA to build up to 1.4 million square feet of consolidated space in Washington D.C. EPA has also developed and forwarded to GSA technical requirements for building performance including a detailed plan for addressing Indoor Air Quality, an emerging national building issue.

The GSA plan is to construct a facility of 1.1 million square feet using $226 million from the Public Building Fund. This was based on a 1988 staff level and 0.5 percent growth in staff through 1995. Growth since that time has exceeded GSA's

estimate and EPA's internal calculations indicate that 1.1 million square feet may not meet our 1990 housing needs. GSA assumed that a site plan could be designed to build additional capacity as needed. With regard to future space requirements, EPA's internal projections indicate that 1.4 million square feet will accommodate current staffing levels plus 3 per cent annum growth through 1995.

The cost differential is over $100 million. Approximately half of this difference is attributable to size. The other half reflects a difference in quality standards. GSA plans to build a building to GSA standard quality. EPA plans are for an increased level of quality to be responsive to its mission. This includes providing a high level of indoor air quality and a building capable of meeting our technical requirements.

Question. As you know, Mr. Administrator, I am always concerned that Maryland gets the chance to bid on a level playing field with the District and Virginia for new Federal facilities in the metropolitan Washington area. Unfortunately, the previous Administration had no regional agency relocation policy, so we in Maryland have been forced to try and compete for every non-Cabinet Federal agency that needs a new building. I recognize, however, that EPA has a unique mission and role that may require it to be in the District. Would you be willing to work within the Administration to help develop such a regional relocation policy so EPA's needs do not get held hostage.

Answer. The management of the Federal Government's property inventory including housing and construction of office space is of course, the primary responsibility of the GSA. I am willing, however, to discuss the location of Federal facilities within the Administration as appropriate.

EPA RF RADIATION GUIDANCE PROGRAM

Question. What percentage of respondents were in favor of EPA promulgating guidelines? (Provide numerical data also)

Answer. Of the 113 sets of comments submitted to EPA's Central Docket on the Notice of Proposed Recommendations (NPR) for radio frequency (RF) radiation, 75 (66 percent) were in favor of EPA promulgating guidelines.

Question. What percentage of respondents were not in favor of EPA promulgating guidelines? (Provide numerical data also). Characterize the remaining comments received—provide percentages and numbers.

Answer. One commentor, out of the 113 sets of comments submitted, was not in favor of EPA promulgating guidelines. This reflects about one percent of all the respondents who submitted comments to the Docket. (37 commentors did not express an opinion as to whether EPA should promulgate guidelines.) Another person who testified at a public hearing also opposed establishing guidance until more research was conducted.

The Notice of Proposed Recommendations (NPR) solicited comment on many posed questions and issues. In addition to comments on whether Federal Guidance for radio frequency (RF) radiation was needed, respondents addressed a wide variety of important issues: biological and health effects; the adverse effects level; use of safety factors and their magnitude; economic impacts; operational impacts; public vs. occupational exposure limits; how to address various technical, definitional, and measurement issues in any guidelines; consumer products; the need for research; and implementation of Federal Guidance. The latter is an important area of concern because Federal Agencies and others seek establishment of a technical assistance and oversight program by EPA to facilitate implementation of an exposure guide and to provide needed monitoring and instrumentation support.

Question. How long has EPA studied comments?

Answer. The public comment period ended in mid-December 1986. From that time up until July 1988, the Docket has been reviewed to varying degrees. The total time devoted to hands-on review, study, and processing of the comments has totaled approximately one person-year of effort.

Question. Describe Agency actions and efforts taken to date on the NPR. Describe actions which remain to be taken in order to complete the process.

Answer. The Notice of Proposed Recommendations (NPR) for radio frequency (RF) radiation exposure limitations was based on a lengthy investigatory and information collection process spanning the last ten years. The background work was concentrated in two major areas: 1) characterization of the sources of RF exposures, the sizes of the populations exposed to RF radiation, and the levels of RF radiation to which populations are exposed; and 2) health effects research to develop the basic biological data needed to assess health risks.

The NPR, published July 30, 1986 in the Federal Register, proposed four options for addressing RF radiation. These included three regulatory exposure limits which

incorporated various scientific uncertainties, and a nonregulatory option which would place EPA in the position of serving as a source of information for actions by others. Public hearings were held on these options, and public comments were submitted to EPA's Central Docket.

The remaining work lies in two principal areas: 1) completion of the scientific investigations necessary to reduce the levels of uncertainty surrounding the separate recommendations to a point where the final recommendation is defensible from a scientific and risk management stance; and 2) obtaining a consensus from the affected community on the final recommendations, as required by the Agency's Federal Guidance authority.

In addition, the Agency would need to provide, over the next several years, support and technical assistance to other Federal agencies and the States in order for them to implement the recommendations after they were published.

Question. How much Federal money and resources have been expended to date?

Answer. The Agency has used 75.9 FTE and spent $6.5 million on radio frequency radiation research and operating programs since FY 1983. About 10–20 percent of that total has been directly related to the guidance effort.

EPA RESOURCES EXPENDED ANNUALLY ON RF RADIATION

[In thousands ofdollars]

	FY83	FY84	FY85	FY86	FY87	FY88	FY89 [1]	Total
FTE	16.0	20.5	18.5	7.0	6.0	5.0	2.9	75.9
Total $	1531	1869	1740	391	451	321	194	6497

[1] FY89 resources are estimated annual expenditures.

Question. What percent of efforts needed to promulgate guidelines have been completed? What efforts are needed to complete the process?

Answer. Although it is difficult to make an accurate projection of the cost of the work remaining on this project, it is reasonable to say that the Agency has already invested more time and resources in bringing the guidelines development project to its current state than would be required to complete it. The remaining work lies in two principal areas: 1) completion of the scientific investigations necessary to reduce the levels of uncertainty surrounding the separate recommendations to a point where the final recommendation is defensible from a scientific and risk management stance; and 2) obtaining a consensus from the affected community on the final recommendations, as required by the Agency's Federal Guidance authority.

Question. How many hours of human resources and calendar time would be needed to complete the process?

Answer. Until we obtain the results of the remaining scientific investigations and decide upon a recommended course of action, we cannot accurately project the total cost of completing the project.

Question. Explain the agency rationale for curtailing work on the NPR process.

Answer. EPA has the legislative mandate to address a wide variety of radiation problems. Previous attempts to resolve many radiation issues simultaneously resulted in delays inherent in spreading limited resources over too many projects. A new strategy for the Radiation program focuses on obtaining results in the most critical program areas, such as indoor radon, and in those where specific Court-ordered schedules do not allow further delays, such as airborne radionuclide emissions. This strategy required reducing levels of effort in those areas where further efforts can be postponed.

Work in the radio frequency area was included among those projects postponed because it has no mandatory or court-ordered schedule, precise health effects relationships have not been established, and completion of the work could not be projected for the next several years.

RADON

Question. Under EPA'S present system for approving new technologies in the battle against radon gas, it has been suggested to the Committee that such approval may take over 1 year from the time the product is ready for consumer use until the time EPA approves it. Given the fact that our best experts estimate that up to 20,000 people a year are dying due to radon gas, the committee is interested in learning what can be done to condense that approval period without endangering

the quality of the process. How much would it cost for EPA to greatly shorten the time it takes to bring on line new or improved technologies?

Answer. The Agency is very interested in promoting new technologies in its effort to reduce indoor levels of radon. As part of EPA's National Radon Measurement Proficiency (RMP) Program, companies are encouraged to submit new radon and radon decay product measurement devices to the Office of Radiation Programs for evaluation once a working prototype has been developed. Subsequent to a successful evaluation, EPA works with the manufacturer to develop a protocol that will ensure the device is operated or deployed correctly and has adequate quality assurance provisions.

The time required to evaluate a new device and develop a protocol for it is dependent on many factors outside the direct control of EPA. For its part, EPA encourages the introduction of new devices into the RMP Program as soon as their acceptable performance has been demonstrated.

We continue to look for ways to streamline the RMP Program and encourage innovation.

Question. It has been suggested to the committee that EPA does not have adequate funding or expertise to officially accredit or certify radon laboratories and testing devices. It has also been suggested that EPA does not claim that its listing of the laboratories and testing devices it has successfully tested is such an accreditation or certification. Yet, it has been suggested that many states and localities treat EPA's listings as though it is a de facto certification or accreditation. Does the National Voluntary Laboratory Accreditation Program of the National Institute of Standards and Technology possess such expertise to certify or accredit radon laboratories and testing devices? And, would they be willing to utilize that expertise for EPA's radon testing program and would they be willing to undertake this function for EPA?

Answer. The National Voluntary Laboratory Accreditation Program (NVLAP) does not currently possess the technical expertise needed to certify radon laboratories and testing devices. The Agency has considered the feasibility of NVLAP adopting EPA's Radon Measurement Proficiency (RMP) Program, but believes that the time needed to create the necessary technical expertise at NVLAP would badly disrupt the RMP Program. Additionally, based on current fees at NVLAP and EPA's initial discussions of likely fee levels for the RMP Program (as authorized by the Indoor Radon Abatement Act), EPA believes that the cost to radon measurement companies would be substantially higher if NVLAP were to operate a certification program, potentially creating barriers to entry for small businesses.

EPA believes that its National Radon Measurement Proficiency (RMP) Program and the National Contractor Proficiency Program, both of which are authorized by the Indoor Radon Abatement Act, represent the best approach for providing States and the public with information about proficient radon measurement and mitigation companies. States are in the best position to determine whether more formal certification programs are needed to address radon in their jurisdictions. In fact some States, as you mention, because of their confidence in EPA's established RMP Program, already use it as a core component of their State measurement certification program. Further, the Agency believes that the additional cost associated with operating a formal certification program would not lead to a commensurate increase in the public's confidence in the RMP Program.

The Agency is working and will continue to work with States, our Science Advisory Board, laboratory testing associations and others to strengthen and improve these programs. For example, EPA has added a "blind" test to the RMP Program to test measurement companies without their foreknowledge of a test being conducted. The blind test will greatly strengthen the RMP Program by evaluating companies' day-to-day performance in the marketplace.

Question. Does EPA's procedure for delisting a radon testing device or laboratory include within it a retesting and review procedure so that a legitimately competent and valuable technology would not be precluded from the consumer due to an uncharacteristic failure?

Answer. Yes. Any new radon measurement device which is submitted for inclusion in the RMP Program is first evaluated at our EPA laboratories. Once a device completes a successful evaluation, EPA works with the manufacturer to develop a protocol that will ensure the device is operated or deployed correctly and has adequate quality assurance provisions. There are currently a total of eight approved testing devices.

EPA conducts the National Radon Measurement Proficiency (RMP) Program to assess the proficiency of companies using these devices. New companies which fail the RMP Program are given an opportunity for a retest in the same test round.

Companies which fail a test round entirely can apply to be retested in subsequent test rounds. A new list of proficient measurement companies is compiled at the conclusion of each test round.

Question. Is it true that the EPA's national radon survey, the Army, the Air Force, the National Institutes of Health, and the American Lung Association are all using only long-term testing procedures because its measurements are much more representative of the actual annual radon exposure levels and it is the only testing procedure EPA recommends as a basis for a decision to remediation? In light of the fact that EPA literature states . . . children are at higher risk from exposure to radon than are adults..." shouldn't EPA's radon testing program for schools also require the more accurate long-term testing program upon which schools can base decisions for remediation?

Answer. No. Short-term testing devices like charcoal canisters are very accurate—in many cases, more accurate than alpha-track (long-term) detectors. However, since radon concentrations vary over time, one alpha track device placed in a location for 1 year may estimate a long term average better than one charcoal device. However, several charcoal devices placed during an extended time frame give a good estimate of long-term average radon levels.

The organizations to which you refer are using long term testing devices like the alpha track detector for logistical reasons—not for reasons related to accuracy. Charcoal canisters must be analyzed within ten days of exposure, while alpha track detectors can be analyzed much later. These logistical considerations have important implications for an organization like the Department of Defense which is testing buildings throughout the world.

Short term radon measurement devices can be used to make determinations about the need for remedial action. In cases where initial screening measurements reveal very high levels, EPA recommends additional testing to confirm the high levels prior to remediation.

EPA's guidance on radon in schools is consistent with our guidance on radon in homes. Higher radon screening levels call for more immediate confirmatory measurements. The increased urgency of confirmatory measurements in schools is because: 1) scientists believe children may be up to three times more sensitive to radiation exposure than adults; 2) Congress has directed EPA to address the radon risks of special populations, including children; 3) screening measurements and confirmatory measurements conducted in schools are less likely to overestimate radon levels than screening measurements in homes; and 4) communications research shows that people are less likely to take action when recommended follow-up activities can occur a significant amount of time into the future.

We believe schools should use the testing procedures and guidelines outlined in "Radon Measurements In Schools."

Question. The Surgeon General's announcement that radon gas is a major health hazard for the American people caused a great increase in the number of Americans who began addressing the problem by testing their homes and mitigating them if they contained a dangerously high radon level. What public relations programs is the EPA considering which could, at very low cost, cause additional Americans to address this serious problem?

Answer. EPA estimates that to date approximately 4 percent of U.S. homes have been tested for radon. The Radon Action Program has been successful in increasing public awareness of the potential health effects of indoor radon, but there is much work to be done to encourage testing and, when appropriate, mitigation. Public information and education has been a key element of the Radon Action Program since its inception, and we plan to continue activities in this important area.

Radon was recently selected by the Ad Council as one of the items for which the Council will develop an advertising campaign. Through its agreement with the Ad Council, EPA will receive services and goods worth 10–30 times its own investment. The Council will develop advertising strategies and materials and work through advertising agencies and the media to publicize the health risks of radon and educate the public about effective radon measurement and mitigation action.

The Agency has developed a two-minute mini-documentary on radon testing that has been distributed to approximately 200 television stations across the country with medium sized markets and was recently used by the three major networks to cover the April 20 announcement of the results of EPA's 16-State survey of radon in schools. EPA is also working with television stations to encourage adoption of radon advertising campaigns similar to the one conducted by WJLA-TV (Channel 7) in the Washington, D.C. metropolitan area. The Agency has also developed a slide show which is being shown at hundreds of American Lung Association meetings across

the country and is developing public information brochures in cooperation with the National Association of Realtors and the American Medical Association.

Finally, the Indoor Radon Abatement Act (IRAA) authorizes EPA to provide grants to assist States to develop radon programs. Among the activities eligible for funding is the development of public information and education materials at the State level. States may also use grant funds to assist local governments to implement radon public information activities. The President's fiscal year 1990 budget contains $8 million to implement the State grants program. EPA will continue working with States to inform citizens about radon risks and effective approaches to addressing elevated indoor radon levels.

Question. What is being done by the Environmental Protection Agency to make sure that the American people understand that short-term testing may be effective for screening a geographical area to determine general concentrations of radon, but that it does not provide the homeowner with a definitive reading of the radon level in their particular structure?

Answer. EPA always stresses the importance of follow-up measurements before homeowners make decisions about appropriate mitigation approaches. While short-term testing can be an effective tool for evaluating the potential for radon health risks in a residence, EPA's A Citizen's Guide to Radon recommends that if elevated levels of radon are detected by a short-term "screening" measurement, longer follow-up measurements should be made to confirm the results. The "Citizen's Guide" highlights a three-step radon assessment process: making an initial screening measurement, determining the need for further measurements, and conducting follow-up measurements where necessary during the appropriate time frame. (Recommended follow-up measurements are specified in the "Citizen's Guide" and are dependent on the radon level found during initial screening.) We also emphasize the need for follow-up confirmatory measurements before mitigation in our public education materials.

The Agency is concerned that some homeowners are taking mitigation action based on results of screening measurements. EPA will continue to stress the importance of follow-up radon measurements to determine appropriate mitigation actions.

Questions Submitted by Senator Leahy

CONSTRUCTION GRANTS

Question. The Administration proposes a 38 percent cut below current services in the Wastewater Treatment Construction Grant program, down to $1.2 billion. It is my understanding that the EPA's own survey suggests that the national need for funds for wastewater construction is in the $80 billion range. Is this the case?

Answer. Yes. The 1988 Needs Survey identifies a total of $83.5 billion to satisfy all categories of need for the design year (2008) population.

Question. Given an Administration request that is less than half the authorized level for the program, what sources would fill the funding gap left by Federal cuts? What are your personal views on the size of the need, the present level of funding and the deep cut proposed by the Administration, in light of the EPA survey?

Answer. The Federal Government has already provided financial assistance of over $50 billion for more than 15,000 wastewater projects, and yet $83.5 billion in needs still remain. Considering the magnitude of unmet wastewater treatment needs, the overall size of EPA's budget, and the many competing environmental priorities, it is simply not possible for Federal funds to address more than a fraction of the need. While it may be difficult and unpopular politically, now is the time for states and local governments to assume a greater responsibility for addressing the funding needs for wastewater treatment facilities.

The Congress never intended that Federal funding would meet all of the municipal funding needs. The legislative history of the Clean Water Act demonstrates a consistent move away from Federal funding to state and local financing. The 1987 amendments complete the transition by providing Federal funds which help states establish revolving loan funds (SRFs) capable of meeting a range of water quality needs. The idea behind the SRFs is to meet these needs by a continuous recycling of the repayments from existing loans.

The Agency's request of $1.2 billion, while representing a significant reduction from 1989, will provide the Federal resources needed to meet the highest priority facility needs and capitalize SRF programs. This request is consistent with the Administration's proposed $12 billion phaseout of this program. Within the $1.2 billion request, the Agency has proposed directing most of the 1990 appropriation to SRFs

in recognition of the importance of establishing long-term sustainable sources of funds.

ASBESTOS IN SCHOOLS

Question. I see that the Administration is proposing no funding for grants and loans to remove asbestos hazards from our schools, when the Congress in fiscal year 1989 approved funding of $47.5 million.

Given the clear public health danger that asbestos in schools represents, along with the large number of schools that have received no funding, and the proven effectiveness of this program, what is the Administration's rationale for eliminating this program? What courses of action do you recommend to asbestos-endangered schools if these Federal funds are eliminated?

Answer. EPA has not requested funding for the Asbestos School Hazard Abatement Act (ASHAA) in 1990 since previous Federal funding has already greatly reduced the problem of serious asbestos exposure in schools, and many of the remaining abatement projects are being funded at the local level.

The Agency's approach with respect to asbestos abatement in schools is to emphasize strong technical assistance efforts and active enforcement of existing EPA rules. This approach recognizes the practical reality that decisions on asbestos are best made and funded at the local level, where actual site conditions can be evaluated on a case-by-case basis.

Additionally, the Asbestos Hazard Emergency Response Act (AHERA) schools rule has established a program founded on in-place management of asbestos rather than asbestos removal. Only under very special circumstances do the regulations require asbestos removal in a school. Schools, however, are not prohibited from removing asbestos from their buildings if they use accredited professionals and state-of-the-art practices.

EPA recommends that schools first carefully evaluate the actual need to remove existing asbestos in accordance with the requirements of the AHERA schools rule and, if abatement is necessary, EPA would further suggest that the most appropriate funding sources are to be found at the State and local levels.

CLEAN LAKES

Question. In 1988, I worked to bring funding for the Clean Lakes base program up from a level of zero for fiscal year 1988 to $7.5 million for fiscal year 1989. Why does the Administration want to reverse this modest but effective program by requesting only $2 million for fiscal year 1990? What is the rationale for this cut?

Answer. It is the Agency's position that since lake pollution is usually directly attributable to local sources, the localities, not the Federal Government, should be responsible for cleaning up those lakes. States may include lake restoration/protection projects in their existing water pollution contro programs. However, the Agency has requested $2.0 million in fiscal year 1990 primarily to fund projects with inter-state implications and those which provide the greatest environmental and public benefit, as determined by the States and consistent with EPA regulations.

Question. Can you tell me the status of the February 1989 application of the State of Vermont for Clean Lakes funds for a major diagnostic feasibility study of one of the nation's largest freshwater resources, Lake Champlain?

Answer. The February 1989 application submitted by the State of Vermont to fund the Phase I diagnostic feasibility study of the Lake Champlain project has been approved by EPA. The grant should be awarded by the end of June 1989. The State of New York has also received approval for a Phase I study of Lake Champlain.

ACC FUNDING FOR NEW ENGLAND

Question. It is my understanding that Abatement, Control and Compliance funds are in very short supply for the New England region for fiscal year 1989. Given this situation, is the EPA in a position to commit sufficient ACC funds to accomplish the above-mentioned diagnostic feasibility study of Lake Champlain? At the level requested by the Administration for fiscal year 1990, will the amount of ACC funding available to the New England region increase or decrease for the next fiscal year?

Answer. EPA has approved the grant applications submitted by Vermont and New York ($100,000 each, total of $200,000) to conduct a diagnostic feasibility study. The funding sought through the Clean Lakes Program is only for a small portion of the overall study of the basin which includes many waters that drain into the lake. The major emphasis of this element of the study is to measure the phosphorus load-

ing to the lake and develop a whole-lake phosphorus model to be used in future load allocations. Final award of these grants is anticipated for June 1989.

The overall Lake Champlain Basin Study is estimated to cost $903,105 and will be conducted jointly by Vermont and New York, with technical and financial assistance from EPA (Regions I and II) and from the U.S. Geological Survey.

We are now in the process of evaluating the request and availability of other sources of funding which may be used to help fund this project in 1989 or 1990.

EURASIAN MILFOIL

Question. In February of 1989, the State of Vermont applied for $500,000 from the Clean Lakes Demonstration program, to fund a Eurasian milfoil control program on Lake Bomoseen in Castleton, Vermont. Can you tell me the status of this application, and when the State can expect an answer from the Agency? How many competing applications were received for this funding?

Answer. We received the State of Vermont's application for $500,000 to help fund the Lake Bomoseen Clean Lakes demonstration project. It is currently being reviewed and we expect a decision by May 1, 1989.

This project is one of the 10 lakes named for priority inclusion in section 314(d) of the Clean Water Act. Congress added $5 million for these 10 lakes in the Agency's fiscal year 1989 appropriation. To date, we have received requests from five other "competing" projects.

OIL SPILL FUNDING

Question. In fiscal year 1989, no funding was enacted for the EPA Oil Spills Project, after a funding level of only $300,000 in fiscal year 1988. In light of the ongoing Alaska debacle, what are your current plans for the Oil Spills project?

Answer. I believe you are referring to funding for the Oil and Hazardous Materials Simulated Environmental Test Tank (OHMSETT) facility at Leonardo, New Jersey. The purpose of the OHMSETT facility was to conduct research on different technologies and processes for oil and hazardous spill containment, control, and cleanup. Funding for this facility was phased-out in fiscal year 1989, after 14 years of operation, because there was no longer a demand for additional test and evaluation work using the test tank. A number of major projects were completed under EPA's oil spills research program, including: In-place burning of oil spills in cold climates; improved laboratory dispersant effectiveness tests; on-site field dispersant effectiveness tests; and the Newfoundland offshore oil boom test (an actual large scale oil spill test).

If, as a result of the Valdez spill, the OHMSETT facility comes into demand, we will review our decision.

CLOSED ENVIRONMENT CONTAMINATION

Question. Researchers in Vermont with the Department of Health and the Agency of Natural Resources are increasingly concerned with health problems created by low level contaminants in closed environments. Has the EPA been conducting research in this area? Where among EPA grant programs would Vermont researchers look for funds to do a study, including a medical survey, in this area? What is the status of requested funds, compared with current services, in this program area?

Answer. EPA has a new Indoor Air Research Program, administered by the Office of Research and Development, that is designed to support requirements of Title IV of the Superfund Amendments, the needs of the EPA Indoor Air Division, and the growing interests of the general public. The Indoor Air Research Program is organized around the following research categories: sources of indoor air pollution; measurement methods and model development; health effects; exposure assessment, risk assessment and risk characterization; indoor air quality control options; and technology transfer.

The fiscal year 1989 total budget for indoor air research is $3.5 million and 15 workyears. The fiscal year 1990 budget proposal is level with the fiscal year 1989 program.

There is no grant research performed in the indoor air research program. However, unsolicited research proposals may be submitted to ORD's competitive grants program in the Office of Exploratory Research for possible funding.

QUESTIONS SUBMITTED BY SENATOR FOWLER

WATER CONSERVATION

Question. Mr. Reilly, I am pleased that you are undertaking a fairly extensive and hopefully timely review of the EPA's past operations and priorities, and I would hope that in this process you will include an assessment of the role that municipal water conservation can play in reducing needs for new water supply projects that destroy wetlands and fisheries and for costly expansions of wastewater treatment plants. This would seem to fit in nicely with your emphasis on pollution prevention and proactive efforts that can head off the bandaids and cleanups we are so often stuck with.

You may know that I have recently introduced a bill with 11 of my colleagues which would dramatically reduce water usage nationwide through improved water efficiency of household plumbing products and water-using appliances. As you know, we use a third less energy today than we did fifteen years ago, with a much expanded and improved economy, and I think we can do at least as well in water conservation. I would be interested to know whether EPA has assessed S. 583 to see how it will reduce the $83.5 billion price tag on necessary wastewater treatment improvements. If you haven't estimated this, would you be willing to? Likewise, does the agency have a handle on expected needs and costs of meeting those needs for municipal water supply? Can you estimate the impact of this legislation on such needs and costs?

I am also working on broader legislation to improve our nation's use of water through activities such as better leak detection by water utilities and homeowners, more landscaping with low-water-use plants and grass, better pricing of water, universal metering, public education, technology transfer for industries, and retrofitting of inefficient plumbing devices and water-using appliances. There is evidence to suggest that environmentally and fiscally costly projects such as Two Forks, which you know is of great concern to Senator Kerrey as well as to other Senators from a national perspective, would be unnecessary if Americans used their water more efficiently, and we can do this without the slightest decrease in our standard of living. I would be interested to know the future (both short-term and long-term) plans and goals of the agency in promoting the wiser use of limited water resources.

Answer. As you probably know, EPA looked at water conservation rather extensively about 10–12 years ago, and has promoted its use as a means of fully utilizing the capacity of wastewater treatment facilities constructed under the Agency's construction grants program. More recently, an internal Agency task force has been convened to examine ways in which EPA can further incorporate water demand management principles into its programs. Water demand management includes water conservation, recycling and reuse of wastewater for irrigation and other purposes.

We have not yet made a comprehensive assessment of the potential drinking water and wastewater treatment cost savings which may accrue if water conservation measures are fully implemented by municipalities. This type of information will be developed as part of the activities of the task force. We will be happy to keep you apprised of our efforts in this area as progress is made in the future.

PRECURSORS OF OZONE POLLUTION

Question. EPA last year issued a grant to a group of scientists in Georgia to further study the contribution of naturally occurring substances to ozone formation, primarily in the Atlanta area. Is the Agency aware of preliminary results of this research that you can describe? Do you feel that this information will be available in time for consideration in the development of EPA's proposals for amending the Clean Air Act? If so, how does EPA plan to take this into account?

Answer. EPA is currently in the process of entering into a Cooperative Agreement with Georgia Institute of Technology and North Carolina State University scientists to further study the contribution of emissions from vegetation to ozone formation, primarily in the Atlanta area. The effort is to be completed by the end of this calendar year. Preliminary findings as they become available will be taken into consideration as we proceed with the development of Administration proposal for Clean Air Act Amendments.

CONTRACTING

Question. The EPA has come under some criticism lately for its contracting out of activities in the Superfund program. I am concerned about this, particularly as it

relates to potential conflicts of interest on the part of individual contractors. I am certain that Senator Mikulski will have questions on this point, and I look forward to reviewing your responses. Another question concerning your contracted activities has also come to my attention. The allegation has been made that, in several EPA programs, EPA staff act primarily as contract officers, bureaucrats overseeing work done by non-governmental, for-profit companies. In some cases, I can see where this would be in the taxpayers' interest, but in others, I don't know. Particularly in the area of policy development, I have some concerns when I hear that such and such regulation was written by such and such company, not by so and so of the Environmental Protection Agency. And it is appalling to me the stories I hear—that these companies then go out, once the regulations are in place, and solicit business from parties affected by the regulations, by quietly advertising the fact that they wrote the regulations, so they are the best to help you "comply" with it.

To what extent is EPA contracting out its work on policy development and formulation? To be specific, what percentage of regulations promulgated by the EPA last year were originally drafted out of house? In which areas is this most prevalent? Are regulations being written by outside contractors? What safeguards are in place to ensure that companies doing this sort of work for the EPA have no conflicts of interest? What sort of review are such regulations subjected to within the Agency? Could it be characterized as a rubber stamp? How often are changes in contractor-written draft regulations made by the Agency before publication in the Federal Register? Are there limitations on contractors' representations to future clients on their involvement in the writing of a regulation?

The question has also been raised of EPA's current or potential over-reliance on contractors. For instance, if all of your work in a program is being done by one company, and that company for whatever reasons goes bankrupt, what then happens to the program, particularly if EPA's staff on that program were just overseeing the contractor? Has EPA contemplated this potential problem?

Are there programs at EPA operating with a shell staff of government employees and only one or two contractors? How does EPA plan to guard against such a problem?

Answer. We rely heavily on contractors to support us in carrying out our programs, including the development of environmental regulations. We do not agree that the Agency has turned over inherently governmental functions to the contractor community. The anecdotal stories that are often told are disturbing because they distort the roles of both contractors and agency managers. The Agency's program managers are responsible for determining when contractor support is essential and appropriate. Throughout a project, the agency's project manager directs, oversees, and reviews work being done by the contractor. Contracting officers review work assignments to ensure that they appropriate under the particular contract and they do not turn over inherently governmental responsibilities.

It is clear, however, that the Agency has a serious credibility problem with respect to its management of contractors, particularly with contracts that support policy development. As part of our 90 day Superfund study, we are taking a hard look at our dependence on contractors and at ways to mitigate any real or perceived transfer of inherently governmental functions to contractors.

With respect to conflict of interest, agency contracts include various conflict of interest provisions designed to avoid such conflicts. Certain types of contract do place significant restrictions on the ability of our contractors to work for private firms either simultaneously or for up to 3 years after the expiration of their EPA contract. Other contracts include provisions to prevent a particular firm from receiving other agency contracts that may present conflict situations. A major weakness that we are now addressing is the ability of the Agency to police contractor compliance with our conflict of interest requirements. This capability and other steps are being taken in response to GAO's recent review of our conflict of interest procedures.

WOOD PRESERVING REGULATIONS

Question. Last December 30, the EPA issued proposed regulations for several wastes generated by the wood preserving industry, a major employer in the state of Georgia and other states, and a major contributor to Georgia's rural economy. This was originally not considered a "major rule" by EPA, but I understand that last month it was reclassified as such on direction from OMB. Can you provide some insight into what alternatives are being considered, in light of this change in the proposed regulation's status?

As you know, I serve on the Agriculture Committee, which has for some time been wrangling with FIFRA issues, and I am wondering why you chose to regulate these pesticides under RCRA instead of FIFRA which was intended by Congress to be the primary statute in controlling the use of pesticides. Can you provide insight into that decision? Is regulation under FIFRA still being actively considered, particularly in light of the classification of this as a "major" rule?

Answer. The Agency decided to regulate wood preserving wastes under the Resource Conservation and Recovery Act (RCRA) instead of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) in December 1987 before FIFRA reauthorization. At that time, the major reason for using RCRA was perceived difficulties of enforcing disposal requirements with the use of FIFRA, which generally relied on label requirements only. The Agency concluded that RCRA was more appropriate for the control of disposal of wastes from a process such as wood preserving.

As the proposed rule is considered to have major economic effects as well as other factors, the Agency will continue to consider the use of FIFRA and other statutes as alternatives to control these wastes. The Agency anticipates that the industry's comments on the proposal (due by April 30, 1989) will request such consideration, along with providing other recommendations.

Questions Submitted by Senator Kerrey

SOLID WASTE

Question. What programs or initiatives has EPA initiated to address the problems of solid waste? And has EPA devoted resources to exploring recycling options in regards to solid waste?

Answer. On February 1, 1989, the Agency issued the national solid waste strategy, The Solid Waste Dilemma: An Agenda for Action. The Agenda sets forth national goals and objectives for addressing municipal solid waste. A primary goal of the Agency is reducing the amount of waste disposed by 25 percent by 1992 through a combination of recycling and source reduction. The Agenda calls for responsible action by all sectors of society.

The Agenda identifies regulatory and nonregulatory actions EPA will pursue to further the national goals. Specific Agency objectives are to: increase available information for improved decision-making in solid waste management; step up State and local integrated waste management planning to provide for adequate capacity; increase recycling of solid wastes; and reduce risks from incineration and landfilling.

The Agency's fundamental role is facilitating the actions of others (government, the private sector, consumers, and interest groups) in implementing integrated waste management by:

—developing national direction for solid waste management through standards, guidelines, and facility criteria;
—working with State and local government and interest groups to evaluate source reduction, source separation, composting, recycling, and materials substitution technologies;
—developing guidance and providing technical information and publications for Federal, State, and local agencies to facilitate their implementation of national solid waste standards, guidelines, and criteria;
—providing technical expertise and assistance in areas of solid waste planning, financing, and implementation. Those targeted for such assistance will include Federal agencies, Indian communities, and State and local governments; and
—working with industry and interest groups to promote source reduction and recycling to reduce the toxicity and quantity of municipal solid waste.

ORDINANCE PLANT—MEAD, NEBRASKA

Question. What is the status of EPA's Region 7 investigation into the former Ordnance Plant in Mead, Nebraska? Is EPA currently reassessing its Hazard Ranking System for Federal facilities? And if so, will this delay EPA's evaluation of the Mead site? Currently, there are several families receiving bottled water under your Agency's bottled water program. What is the history of that administrative decision? How long will these families continue receiving bottled water? Have any requests been made to provide the parties affected by contaminated drinking water with bottled water both on site and off site? Has EPA made a decision on such requests? Will EPA consider providing bottled water to University of Nebraska employees employed on the site?

Answer. EPA is currently overseeing the investigation at Mead that is being conducted by the United States Army Corps of Engineers (USACOE). This oversight includes reviewing sampling plans and results, attending technical review meetings and public meetings, and coordinating with the USACOE and interested State and local agencies. Because the site is a former Department of Defense facility being addressed under the Defense Environmental Restoration Program, the USACOE, not EPA, is acting as the lead agency for the ongoing investigation.

EPA is currently in the process of revising its Hazard Ranking System, and, in doing so, is considering the Mead site for inclusion on the National Priorities List. At this time, it is difficult to speculate what the outcome of the Agency's consideration will be.

Currently, only one family is being provided bottled water by EPA. Sampling of the domestic well for the John Kirchman family by the USACOE showed contamination by trichlorethylene (TCE) at 89 parts per billion (ppb). This level of contamination is below EPA's removal action criteria of 128 ppb TCE; normally used in making decisions regarding the provision of bottled water. However, EPA was requested by the USACOE to provide bottled water in this particular case. Because the level of TCE, while below our health based removal criteria, may be significant over the long term, and because of uncertainties surrounding the length of time the family's well may have been contaminated, EPA agreed to provide the family with bottled water. It is anticipated that the family will continue to be provided bottled water, by either EPA or the USACOE, until such time as the TCE level is reduced to levels considered safe over the long term. The current maximum contaminant level for TCE in drinking water is 5 ppb.

No other requests have been made to EPA for the provision of bottled water.

The Federal Safe Drinking Water Act, State Safe Drinking Water Act, and the Federal and State rules and regulations promulgated thereunder clearly define the University of Nebraska as a Public Water Supply (PWS). The University, as a PWS, is required to provide to its consumers (i.e. employees) water of acceptable, contaminant free quality. There are no provisions under these authorities, nor are there funds available, which would allow either EPA or the Nebraska Department of Health to provide bottled water to PWSs with contamination problems.

GROUNDWATER—HASTINGS, NEBRASKA

Question. I have been contacted by city officials of Hastings, Nebraska concerning EPA's investigation of ground water contamination in and around the city. What is the current status of EPA's investigation in Hastings? What does EPA judge to be the greatest threats to public health at or around the sites? What has EPA and its contractors spent so far? What are EPA's estimates for each subsite's cleanup?

Answer. The EPA is negotiating with the responsible parties for cleanup at the Colorado Avenue and FAR-MAR-CO subsites. The City of Hastings is also negotiating with EPA to prepare a feasibility study for the North Landfill. EPA has completed the remedial investigation at this subsite.

This summer EPA plans to release documents for public comment regarding the remedial investigation/feasibility study for the Well #3 subsite. The United States Army Corps of Engineers will be releasing documents this summer related to its investigations at the former Naval Ammunition Depot, east of Hastings.

The site is technically complex due to the distances which plumes have traveled in the ground water and the number of separate contaminant sources. The greatest threat is the potential for continued movement of the contaminant plumes toward public and private water wells.

Ground water sampling is ongoing throughout the Hastings area to monitor plumes. The data from the samples are part of the information needed to formulate remedies for the ground water contaminants.

EPA has spent approximately $2 million installing and sampling ground water monitoring wells to define the extent of contamination in the soils and soil-gas. As a result of these activities, EPA has identified the preferred remedy for addressing contaminated soils at two of the subsites. When implemented, these response actions will mitigate the source of contamination of the ground water at these two subsites.

Cost estimates for remediation range from $2 million to $10 million per subsite. Actual costs will be determined by the extent of remedial response that is needed. Operation and maintenance costs would increase these estimates if long-term treatment of contaminated ground water is needed.

WAVERLY, NEBRASKA—GRAIN STORAGE SITE

Question. It has been reported that a number of Nebraska communities are facing threats to their drinking water supplies due to the past use of chemicals at Commodity Credit Corporation grain bins. What is the status of your investigation into these sites in Nebraska?

Answer. EPA's Region VII office in Kansas City has been conducting an ongoing investigation of the Commodity Credit Corporation's (CCC) grain bins throughout Iowa, Kansas, Missouri, and Nebraska. The CCC is affiliated with the United States Department of Agriculture (USDA). As a first step, EPA has been working to identify the grain bins, verify their positions, and match their locations with the sites of reported contamination of ground water with carbon tetrachloride; the chemical most commonly used at grain bins. By doing this, EPA hopes to determine if the grain bins are located close to these reported instances of contamination. Thereby, providing a starting place for further, more detailed investigations to determine if the grain bins have contributed to this contamination.

In Region VII, about 1,200 CCC grain bins have been identified, most of them in Iowa and Nebraska. A small fraction of the 1,200 are located near reported ground water contamination. The Agency has taken some action at several of these sites.

At the Waverly, Nebraska site, EPA is conducting a ground water restoration remedial action. Response activities include collecting design data, installing monitoring wells, constructing an active gas extraction system, and building a water treatment plant. The systems are working well and the levels of contamination are dropping. USDA is performing a hydrogeologic study to determine if there is a need for additional monitoring wells.

Currently, the Agency is developing an approach for investigating and remediating the remainder of these sites with the involvement of both Region VII's Superfund and Drinking Water offices. EPA is also working with USDA to determine the extent of their involvement in further investigations and remediations at CCC grain bin sites.

LEAKING UNDERGROUND STORAGE TANKS

Question. We have been contacted by a number of rural Nebraska gas station owners who are concerned about the new regulations regarding leaking underground storage tanks. How can we work with them to meet the requirements of the new regulations? What role can the states play in this effort?

Answer. EPA has made a concerted effort at every stage of the process to consider the impact of these regulations on owners and operators such as those you cite. Under the regulations, for example, compliance with the technical standards and financial responsibility regulations are being phased in, to help lessen the impact on small businesses. To assist the regulated community in understanding and complying with the requirements, the Agency has prepared two booklets that provide clear summaries of the regulations in "plain English" and produced video tapes and other outreach materials designed to help owners and operators manage their tanks in ways that more effectively protect the environment.

States are developing their own preventive and corrective action programs for underground storage tanks. Most have developed sources of funding independent of EPA's program development grants and Trust Fund monies. States are developing State financial assurance programs to assist the regulated community by at least providing funds to address existing leaks—leaks which no commercial insurance program will cover.

ALTERNATIVE FUELS

Question. I was pleased by your emphasis on reaching agreement on Clean Air legislation. I am sure you are aware of the important role that can be played by alcohol-based fuels in reducing air pollutants emitted by vehicles. What role do you foresee being played by alternative fuels, particularly grain-based fuels? What specific programs and funds has EPA devoted to researching and developing these alternative fuels?

Answer. Alternative fuels present unique opportunities for reducing air pollution. In the shorter term, when blended with gasoline they can provide immediate reductions in emissions of carbon monoxide from the current fleet of cars, without having to make changes to the engines or the cars. In the longer term, when engines specifically designed for alternative fuel use become widely available, these fuels can result in greatly reduced air pollution and improved energy efficiency.

EPA has been studying and encouraging the use of alternative fuels through the support of engine development efforts (using contracts and in-house expertise to solve critical problems that interfere with wider use of alternative fuels), reducing the regulatory barriers to their use (such as with the issuance of waivers for blended fuels and the recent rule that sets standards for methanol fueled engines), making available information on how to use them in air pollution control (such as the guidelines issued last year on the use of alternative fuels in State Implementation Plans), and by bringing together various interests in new organizations to foster the development and demonstration of alternative fuels (such as in the currently active demonstration of the use of methanol fueled urban buses in New York City). The fiscal year 1990 budget request for the Office of Air and Radiation includes an increase of $1.4 million for contracts for alternative fuels, for a total of approximately $2.1 million in contracts for fiscal year 1990. The staff support to the alternative fuels program is approximately 7.0 workyears. The Office of Research and Development's fiscal year 1990 budget request includes $400,000 and 4.5 workyears. These resources will provide for a program to characterize emissions for use in the assessment of potential ozone/air toxics impacts.

EFFECTS OF AIR POLLUTION ON CROPS

Question. Has EPA researched or studied the effect of air pollution on crops? Or of the effects of ozone depletion on crops? Does EPA plan to study this problem? If so, when?

Answer. EPA has recently completed a 7-year field study to assess the impact of ozone on U.S. agricultural crops. The study determined the effects of ozone on major agricultural crops (the 8 crop species studied represented 90 percent of the U.S. agricultural acreage). The study concluded that ozone had a significant adverse impact on U.S. agriculture with annual losses from ozone amounting to $2 to $4 billion. The study did not consider the effects of ozone on high value horticultural crops or fruits which are grown only in some states. The results of the EPA research are found in the recent Air Quality Criteria Document for Ozone and other Photochemical Oxidants (published by EPA in 1986).

EPA's Stratospheric Ozone Research Program has, in the past, done a significant amount of research on the effects of stratospheric ozone depletion on crop species. Of the crops studied, the majority were found to be sensitive to ultraviolet-B (UV-B) radiation—radiation that would increase as a result of depletion of stratospheric ozone. In some kinds of soybeans, the yield and food quality were reduced under increased UV-B exposure, but other kinds were more resistant. There is concern that increased exposure to UV-B radiation may lead to decreased productivity of agriculture and forestry, but definite conclusions cannot be drawn on the basis of the currently available knowledge. EPA is now coordinating its crop research with the Department of Agriculture. EPA is concentrating its research on determining the effects on rice—rice being a food commodity that supplies two-thirds of the world's caloric intake—while USDA is targeting wheat, corn and soybean crops.

NONPOINT SOURCE

Question. Congress authorized $400 million over 4 years to address nonpoint source pollution under section 319 of the Clean Water Act. No funds have been appropriated for this program since its enactment, and once again, the Administration's fiscal year 1990 budget request does not seek section 319 funding.

EPA's budget request for fiscal year 1990 identifies $7 million insection 106 funds that can be used for nonpoint source pollution programs. These funds are already stretched for permitting, enforcement, monitoring and other traditional point source programs. Nor is the other alternative suggested by EPA, Title II funds, adequate for the job. How does EPA intend to address nonpoint source pollution in light of the lack of adequate funds having been requested?

Answer. The President's Budget includes a $64 million initiative, mostly in the Department of Agriculture, to address the primary source of NPS pollution, agricultural runoff. In addition, EPA will continue to use all available extramural funds to develop and disseminate technologies and techniques to assist states and localities to target their NPS control and prevention efforts as cost-efficiently as possible. EPA is establishing a Clearinghouse to assist in information transfer and will continue to provide conferences, workshops and meetings to assist states in trading their experience, expertise and successes with NPS control and prevention as widely as possible.

EPA's budget request for fiscal year 1990 identifies $7 million in section 106 funds for NPS. These funds are part of an overall increase in section 106 grant funding for fiscal year 1990. States will use these additional funds to implement approved non-

point source management programs and will target these resources to high priority NPS needs. Funds will be provided for selected, targeted watershed management projects to protect and improve critical aquatic habitat. Funds will also support statewide NPS programs.

EPA will continue to provide guidance and assistance to states in using Titles II and VI funds to support implementation of approved state NPS management programs, as selected states have already done. In addition, EPA will continue to assist states and localities to make maximum use of funding for NPS management activities available through other Federal agencies, e.g., the PL 566 Small Watershed Program administered by the Soil Conservation Service of the U.S. Department of Agriculture or the Agricultural Conservation Program administered by the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture.

TWO FORKS

Question. I want to thank you for initiating the review of the Two Forks Dam on the Platte River. I know the process has a long way to go and that there are a number of variables in it. How do you currently see the process playing out?

Answer. On Friday, March 24, 1989, James J. Scherer, EPA Regional Administrator for Region VIII, initiated review of the proposed dam and reservoir project as provided in Section 404(c) of the Clean Water Act. EPA's action will focus on potentially unacceptable adverse environmental impacts of the Two Forks project. On April 3, Mr. Scherer delegated his authority to complete the Regional aspects of EPA's Section 404(c) action to Mr. Lee A. DeHihns III, EPA Deputy Regional Administrator for Region IV. The Corps of Engineers, the permit applicant and the affected land owners have been notified of EPA's action and have been offered an opportunity to demonstrate to EPA that no unacceptable impacts will occur or that corrective actions will be taken to prevent potential impacts. If, during that opportunity for consultation, it is not demonstrated to Mr. DeHihns' satisfaction that unacceptable adverse effects will not occur or that the Corps of Engineers intends to take corrective action to prevent an unacceptable adverse effect, Mr. DeHihns will publish a proposed determination and public notice of that proposed determination. This proposed determination would not represent a judgment that the project will result in unacceptable adverse effect; it merely would mean that Mr. DeHihns believes that the issue should be further explored. Conversely, if Mr. DeHihns is satisfied that unacceptable adverse effects will not occur, he will withdraw EPA's action.

If Mr. DeHihns publishes notice of a proposed determination, EPA will provide a public comment period of 30 to 60 days and will likely hold a public hearing. Subsequent to the public hearing and after the close of the public comment period, Mr. DeHihns will either decide to withdraw the proposed determination or prepare a recommended determination outlining the rationale for EPA actions. The Administrator of EPA has delegated the authority to make final decisions under Section 404(c) to the Assistant Administrator for Water, who is EPA's national Clean Water Act Section 404 program manager. Under the present regulations, if the proposed determination is withdrawn by Mr. DeHihns, the Assistant Administrator may review such withdrawal. If Mr. DeHihns prepares a recommended determination, he will forward that document to EPA Headquarters where, after reviewing recommendations contained in the document, the Assistant Administrator will initiate a final consultation with the Chief of Engineers of the Army Corps of Engineers, the affected landowners and the applicant. These parties are given this opportunity to show that they intend to take corrective action to prevent an unacceptable adverse effect, satisfactory to the Assistant Administrator. Within 60 days of the receipt of the recommended determination and administrative record, the Assistant Administrator for Water will make a final determination affirming, modifying or rescinding the recommended determination.

Question. What is your best guess as to when we will have a final decision?

Answer. In previous cases where EPA has completed actions pursuant to Section 404(c), the entire process has taken from 9 months to a year. Based on that timeframe, EPA would expect to make a final decision in December 1989.

Question. When will Nebraska interests have an opportunity to make input into the process?

Answer. If Mr. DeHihns proceeds to the proposed determination stage of the Section 404(c) process, EPA will publish a notice of that action in the Federal Register. All interested parties will then have the opportunity to submit written comments on EPA's action and provide information as to whether the proposed determination should become the final determination.

Question. Do you anticipate a hearing in Nebraska?

Answer. If Mr. DeHihns determines that there is a sufficient degree of public interest in EPA's action, he may decide to hold a public hearing. Generally such hearings are held in the vicinity of the affected discharge site. Where there are potentially significant impacts which are removed from the affected site but are clearly associated with the proposed discharge, EPA would consider holding a hearing to receive public comment germane to the Section 404(c) action. If this case advances to the public hearing stage, EPA expects to hold hearings in Nebraska as well as in Colorado.

FUNDING LEVEL FOR OPERATION PROGRAMS—GAO MANAGEMENT STUDY

Question. You note on page 9 of your testimony that the Operating Programs of EPA will increase by 5 percent, but your request is actually below the amount appropriated for fiscal 1989 and below the current services estimate.

What impact do you see these reductions making in your ability to meet program requirements?

Answer. The fiscal year 1990 budget request reflects an increase for our Operating Programs over both the appropriated levels in fiscal year 1989 and the Current Services Estimate. The fiscal year 1989 appropriated level for the EPA's Operating Programs is $1.739 billion. The fiscal year 1990 budget request is $1.833 billion. This represents an increase of $94 million, or 5 percent. The Current Services Estimate for the fiscal year 1990 Operating Programs is $1.781 billion. The fiscal year 1990 budget request represents an increase of $52 million or 3 percent over the Current Services Estimate.

MARINE RESOURCES

Question. There has been much discussion of protection of marine and coastal resources. Certainly we need to address these areas. But many of the causes of coastal pollution are "traditional" sources that may be located far from the coastal area. Are we about to see an emphasis on the coastal areas at the expense of the "traditional" sources?

Answer. EPA has given increased emphasis over the last several years to the protection of coastal and marine ecosystems. That emphasis has been based on a recognition of the environmental and economic significance of these ecosystems. This increased attention to coastal areas has occurred while EPA and the states have been giving renewed attention to toxic discharges by point sources and have been establishing management programs for the control of nonpoint source pollution. The increased emphasis on coastal and marine protection is presently being accomplished within, and in cooperation with, the traditional point and nonpoint control programs.

Question. Would you compare the funding that you intend to direct to each?

Answer. The requested funding for coastal activities of EPA in fiscal year 1990 is $35,295,700, which includes $23,332,100 for the coastal environment management program and $11,963,600 for the Chesapeake Bay program. An additional $6,000,000 in set-asides from the Construction Grants appropriation provides support for coastal programs ($2.0 million for the National Estuary Program and $4.0 million for Marine Combined Sewer Overflows). EPA's funding for the control of pollution from traditional sources in the fiscal year 1990 request is $121,895,500, which does not include state grants (section 106 grants of $83.2 million and Construction Grants of $1.2 billion).

Question. What specifically will you do in terms of marine protection that will do more than treat the symptoms that may be caused by traditional sources upstream?

Answer. In its approach to protection of coastal ecosystems, EPA has emphasized the usefulness of watershed or waterbody management. Drawing on its experiences with the Great Lakes Program agricultural run-off control demonstrations and the Chesapeake Bay Program nonpoint source control activities, EPA has worked with states and municipalities to initiate similar efforts around the country under the National Estuary Program and the Near Coastal Waters Initiative. Underlying all of this work has been the understanding that protection of vital coastal ecosystems often requires control of upland or upstream sources of pollution. A good example of this is the nonpoint source program adopted by the Puget Sound Water Quality Authority that stresses planning on a watershed basis to address the variety of sources of nonpoint pollution found throughout the Sound.

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CLEAN LAKES

Question. We have three applications pending under the Clean Lakes program—Papio Lakes, Salt Valley Lakes and Elkhorn Lakes. All three applications have been approved by Region VII and forwarded to you. These are good projects and I hope you will look favorably on them. When will you have your decision? I understand that the region is slightly over target. Will you be able to handle that matter?

Answer. We have received all three applications, which are now in the final stages of review. We expect a final decision on these projects by May 1, 1989. Because the total amount of these requests is in excess of the targeted amount of funds available to the Region in fiscal year 1989, we may have to fund some projects at levels somewhat lower than the amounts requested.

RURAL WATER PROGRAMS

Question. Rural areas often experience particular problems in dealing with water problems. What plans do you have to support efforts which are designed to assist rural areas which might not have the same resources that more populated ones do?

Answer. EPA recognizes the problems faced by small communities in complying with drinking water regulations. The regulations acknowledge the difficulties of small communities by providing more flexibility in monitoring and additional time to comply. In addition, small systems are eligible for exemptions from regulatory requirements due to compelling factors, including economic factors. Systems may be granted up to three additional years beyond the deadlines specified in the regulations in order to comply as long as no unreasonable risks to health are posed by the water at the tap. For small systems, exemptions may be extended for additional 2 year periods under appropriate conditions.

To assist small systems, EPA has provided funding to the National Rural Water Association and the Rural Community Assistance Programs to provide training and technical assistance to small system owners and operators cited above. EPA is also implementing an aggressive outreach and education effort to involve the environmental community, private industry, utilities, states and other Federal agencies in providing information and assistance to small systems. We are undertaking special efforts directed at mobile home parks and non-residential water systems in assisting them to comply with drinking water regulations. We are working with private industry, utilities and states in developing innovative low cost technologies, financing techniques and approaches to assuring good operation and maintenance for small systems.

Question. Will you continue to work with the Rural Water Association?

Answer. Yes, the Agency's request symbolizes its support for and desire to work with the National Rural Water Association now and in the future.

WASTEWATER CONSTRUCTION GRANTS

Question. The wastewater construction grant program which offers governments grants of 55 percent of the construction costs are being phased out in favor of a loan program which will be run by states.

What steps is EPA taking to assure a smooth transition?

Answer. To help the states develop revolving loan funds (SRFs) capable of providing long-term sustainable sources of funding, we are issuing needed guidance and regulations as well as providing technical assistance and training to states for management of their SRF programs. Of special concern is the ability of the states to effectively closeout their grant programs while moving to loan programs. Consequently, we have asked states to develop management strategies for completing their remaining grant projects and we are monitoring them closely.

In addition, we are fostering state institutional capability to assure effective performance of existing facilities, avoid premature deterioration and/or inadequate maintenance and to meet their training and technical assistance responsibilities, especially in small communities. The onsite operator training program which assists small communities with compliance problems is broadening its focus to address related financial management problems.

Question. When construction grants are phased out, the 205(j) funds for state planning are also phased out. Furthermore, there is a reduction in this year's general state grant program for water.

How can states assume their additional responsibilities without the construction grant planning funds and with reduced general state funds?

Answer. States will need to use additional methods of raising resources for water programs. Both the states and the EPA Office of Water realize this, and we are working with states to support and stimulate their efforts to find additional funds.

One of the priorities of the Office of Water during fiscal year 1988–89 is a State Funding Study designed to quantify the gap facing the states and find ways to help states alleviate the shortfall facing their water programs. The study will end in late spring with a number of products, including an action plan for continuing EPA activities to support state efforts to find additional resources for water programs.

States already are adopting new revenue-raising measures to supplement current funding. The new methods include instituting or raising fees for state services, levying specific taxes on products or services, pooling monies from fines and penalties into dedicated reserves to fund specified water program activities, designing monetary management funds to pool revenue streams for growth and disbursement to water programs, and, of course, working with legislators and governors' staffs to obtain increased general revenues.

Question. Wastewater treatment grants are made according to needs surveys. What do current needs surveys indicate about the need for construction of future facilities?

Answer. The 1988 Needs Survey estimates $83.5 billion in needs for the year 2008.

Question. Could you provide me with the current priority list for construction grants in Nebraska and the most recent needs survey?

Answer. Attached is a copy of Nebraska's priority list for fiscal year 1989 and a copy of the 1988 Needs Survey Report to Congress.

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STATE: NE
REGION: 07

ACCEPTED FUNDABLE AND FUNDED PROJECT PRIORITY LIST
FISCAL YEAR 1989
FOR NEW LAN AND MARINE CSO PROJECTS BY APPLICANT NAME

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GRANT 8	#CITY 14	#ZIP 52	#PERMIT8 C2	#CAT IIIA Y2	#CAT V Y6	#GRANT AMO 19 #APP IN ST P3	#AWARD L8	#FE
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#STATES THAT HAVE AT LEAST ONE PROJECT ON FUNDABLE PORTION OF PRIORITY LIST: 02 = C, AND 04 = C, N, V, OR A AND
#(IF SRF PROJ: 34 = S & 57 = CURR FY) OR (IF CONST GRANT: 34 = A & 57 = CURR FY & A5 FY GE CURR FY & P0 NOT = AB FB & 06 = 3N/3M)
#PROJ NOT AWARDED FOR SELECTED STATES: >> CONST PROJ ONLY << L5 = 'A ' AND P0 NOT = 'AB' 'FB' (IN ADDITION TO LOGIC FOR CONST PROJ)
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ACCEPTED FUNDABLE AND FUNDED PROJECT PRIORITY LIST
FISCAL YEAR 1989
FOR NEW LAH AND MARINE CSO PROJECTS BY APPLICANT NAME

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RPT-NO: CGT-0034
RUN-DATE: 89-04-18
STATE: NE
REGION: 07

ACCEPTED FUNDABLE AND FUNDED PROJECT PRIORITY LIST
FISCAL YEAR 1989
FOR NEW LAW AND MARINE CSO PROJECTS BY APPLICANT NAME

	#NAME 12			#CAT I Y0	#CAT IVA Y4	#SMAL COMM 33	#ALT TECH Y8	# FA	#FB
POINTS H8	#STREET 51		#NEEDS # 32	#CAT II Y1	#CAT IVB Y5	#ELIG COST 29	#INOV TECH Y7	# FC	#FD
GRANT #	#CITY 14	#ZIP 52	#PERMIT# C2	#CAT IIIA Y2	#CAT V Y6	#GRANT AMD 19	#APP IN ST P3	#AWARD L5	#FE
STAT 34	#STEP 87 #CONG DISTRICT 16		#CERT DATE A5	#CAT IIIB Y3		#FY PRIOR 57	#APP IN EPA L1	#STATUS CHECK	
	#OMAHA, CITY OF			#004200000	#	#	#	#	#
100	#1819 FARNAM		#311825001	#	#	#004200000	#	#N	#
317005N01	#OMAHA	#68183	#NE0036358	#	#	#004200000	#P 891001	#	#
#S #4	#		#P 891231	#		#89	#	#	
	#OSMOND, CITY OF			#000333400	#	#	#	#	#
100	#BOX 340		#311870001	#	#	#000333400	#	#N	#
310732N01	#OSMOND	#68765	#NE0040029	#	#	#000183400	#	#	#
#A #3	#		#P 881231	#		#89	#	#	
	#PLATTE CENTER, VILLAGE OF			#000543300	#	#R	#000000000	#	#
100	#BOX 245		#311975001	#	#	#000543300	#	#N	#
310665N01	#PLATTE CENTER	#68653	#NE0046264	#	#	#000298800	#	#	#
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	#ROCA, VILLAGE OF			#000132800	#	#R	#000116300	#	#
100	#CITY HALL		#312100001	#	#	#000132800	#	#N	#
310736N01	#ROCA	#68430	#NE0050261	#	#	#000099600	#	#	#
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	#SCOTTSBLUFF, CITY OF			#001700000	#	#	#	#	#
100	#1818 AVENUE A		#312185001	#	#	#001700000	#	#N	#
317001N01	#SCOTTSBLUFF	#69361	#NE0036315	#	#	#001700000	#P 891001	#	#
#S #4	#		#P 881231	#		#89	#	#	
	#SID #2, DODGE COUNTY			#	#000540600	#	#	#	#
100	#WEST COURT BLDG.		#310000000	#	#	#000640600	#	#N	#
310738N01	#FREMONT	#68025	#NO-NUMBER	#	#	#000352300	#	#	#
#A #4	#		#P 890630	#		#89	#	#	

#STATES THAT HAVE AT LEAST ONE PROJECT ON FUNDABLE PORTION OF PRIORITY LIST: 02 = C, AND 04 = C, N, V, OR A AND
#(IF SRF PROJ: 34 = S & 57 = CURR FY) OR (IF CONST GRANT: 34 = A & 57 = CURR FY & A5 FY GE CURR FY & P0 NOT = AB FB & 06 = SN/SM)
#PROJ NOT AWARDED FOR SELECTED STATES: >> CONST PROJ ONLY << L5 = 'A ' AND P0 NOT = 'AB' 'FB' (IN ADDITION TO LOGIC FOR CONST PROJ)
#PROJ AWARDED SINCE BEGINING OF CURRENT FY FOR SELECTED STATES: >> CONST PROJ ONLY << L5 = 'A ' & P0 NOT = AC FC + LOGIC CONST PROJ
#STATUS CHECK IS A FLAG TO SHOW THAT A GRANT HAS BEEN AWARDED DURING THIS FY BUT FUNDING STATUS IS NOT = A

RPT-NO: CGT-0034
RUN-DATE: 89-04-18
STATE: NE
REGION: 07

ACCEPTED FUNDABLE AND FUNDED PROJECT PRIORITY LIST
FISCAL YEAR 1989
FOR NEW LAW AND MARINE CSO PROJECTS BY APPLICANT NAME

#NAME 12									
POINTS H8 #STREET 51		#NEEDS # 32	#CAT I Y0	#CAT IVA Y4	#SMAL COMM 33	#ALT TECH Y8	# FA	#FB
GRANT # #CITY 14	#ZIP 52	#PERMIT# C2	#CAT II Y1	#CAT IVB Y5	#ELIG COST 29	#INOV TECH Y7	# FC	#FD
STAT 34 #STEP 87 #CONG DISTRICT 16		#CERT DATE A5	#CAT IIIA Y2	#CAT V Y6	#GRANT AMD 19	#APP IN ST P3	#AWARD L5	#FE
			#CAT IIIB Y3		#FY PRIOR 57	#APP IN EPA L1	#STATUS CHECK	
#STERLING, VILLAGE OF								
100 #BOX 309		#312320001	#000041000	#	#	#	#	#
317011N01 #STERLING	#68443	#NE0040967	#	#	#000041000	#	#N	#
#S #4 #		#P 891231	#	#	#000041000	#P 891001	#	#
					#89	#	#	
#TILDEN, CITY OF								
100 #BOX 37		#312445001	#000399200	#	#	#	#	#
310742N01 #TILDEN	#68781	#NE0027910	#	#	#000399200	#	#N	#
#A #4 #		#P 881231	#	#	#000219700	#	#	#
					#89	#	#	
#MAHOO, CITY OF								
100 #605 NORTH BROADWAY		#310451001	#000500000	#	#	#	#	#
317010N01 #MAHOO	#68066	#NE0021679	#	#	#000500000	#	#N	#
#S #4 #		#P 891231	#	#	#000500000	#P 891001	#	#
					#89	#	#	
#NESTON, VILLAGE OF								
100 #BOX 149		#310455001	#000239600	#	#R	#	#	#
310735N01 #NESTON	#68070	#NE0046337	#	#	#000239600	#	#N	#
#A #4 #		#P 890930	#	#	#000131800	#	#	#
					#89	#	#	
#NISNER, CITY OF								
100 #BOX 367		#312665001	#000200000	#	#	#	#	#
317012N01 #NISNER	#68791	#NE0023957	#	#	#000200000	#	#N	#
#S #4 #		#P 891231	#	#	#000200000	#P 891001	#	#
					#89	#	#	

#STATES THAT HAVE AT LEAST ONE PROJECT ON FUNDABLE PORTION OF PRIORITY LIST: 02 = C, AND 04 = C, N, V, OR A AND
#(IF SRF PROJ: 34 = S & 57 = CURR FY) OR (IF CONST GRANT: 34 = A & 57 = CURR FY & A5 FY GE CURR FY & P0 NOT = AB FB & 06 = 3N/3N)
#PROJ NOT AWARDED FOR SELECTED STATES: >> CONST PROJ ONLY << L5 = 'A ' AND P0 NOT = 'AB' 'FB' (IN ADDITION TO LOGIC FOR CONST PROJ)
#PROJ AWARDED SINCE BEGINING OF CURRENT FY FOR SELECTED STATES: >> CONST PROJ ONLY << L5 = 'A ' & P0 NOT = AC FC + LOGIC CONST PROJ
#STATUS CHECK IS A FLAG TO SHOW THAT A GRANT HAS BEEN AWARDED DURING THIS FY BUT FUNDING STATUS IS NOT = A

RPT-NO: CGT-0037
RUN-DATE: 89-04-18

REGION: 07

NE ACCEPTED EXTENDED PROJECT PRIORITY LIST (NOT YET FUNDED)
FISCAL YEAR 1989
NEW LAW AND MARINE CSO PROJECTS BY APPLICANT NAME

	#NAME 12		#NEEDS $ 32	#CAT I Y0	#CAT IVA Y4	#SMAL COMM 33	#ALT TECH Y8	#MULT FAC FA
POINTS H6	#STREET 51		#PERMIT# C2	#CAT II Y1	#CAT IVB Y5	#ELIG COST 29	#INOV TECH Y7	#PHAS COD FB
GRANT #	#CITY 14	#ZIP 52	#CERT DATE A5	#CAT IIIA Y2	#CAT V Y6	#GRANT AMD 19	#APP IN ST P3	#NMP CODE FC
STAT 34	#STEP 87 #CONG DISTRICT 16			#CAT IIIB Y3		#FY PRIOR 57	#APP IN EPA L1	#FD #FE
	#COLON, VILLAGE OF			#000290000	*	*	*	*
100	#CITY HALL		#310453001	*	*	#000290000	*	*
317013N01	#COLON	#68018	#NE0033499	*	*	#000290000	#P 890110	#N
#S	#4 *		#P 891231	*		#89	*	* *
	#COLUMBUS, CITY OF			#003300000	*	*	*	*
100	#2424 14TH STREET		#310545001	*	*	#003300000	*	*
317003N01	#COLUMBUS	#68601	#NE0035025	*	*	#003300000	#P 891001	#N
#S	#4 *		#P 881231	*		#89	*	* *
	#DAVEY, VILLAGE OF			#000092000	*	*	*	*
100	#CITY HALL		#310600001	*	*	#000092000	*	*
317006N01	#DAVEY	#68336	#NE0024295	*	*	#000092000	#P 891001	#N
#S	#4 *		#P 891231	*		#89	*	* *
	#DODGE, VILLAGE OF			#000121200	*	*	*	*
100	#BOX 277		#310951001	*	*	#000121200	*	*
317007N01	#DODGE	#68633	#NE0042064	*	*	#000121200	#P 891001	#N
#S	#4 *		#P 891231	*		#89	*	* *
	#GORDON, CITY OF			*	*	*	*	*
100	#BOX 310		#311025001	*	#000188100	#000188100	*	*
310816N01	#GORDON	#69343	#NE0039837	*	*	#000103500	*	#N
#D	#4 *		#P 891231	*		#89	*	* *
	#GOTHENBURG, CITY OF			#000111900	*	*	*	*
100	#409 9TH STREET		#311030001	*	*	#000111900	*	*
317009N01	#GOTHENBURG	#69138	#NE0047376	*	*	#000111900	#P 891001	#N
#S	#4 *		#P 891231	*		#89	*	* *
	#HARTINGTON, CITY OF			#000500000	*	*	*	*
100	#BOX 665		#310000000	*	*	#000500000	*	*
317004N01	#HARTINGTON	#68739	#NE0049115	*	*	#000500000	#P 891001	#S
#S	#3 *		#P 881231	*		#89	*	* *
	#LEXINGTON, CITY OF			#001400000	*	*	*	*
100	#BOX 70		#311415001	*	*	#001400000	*	*
317002N01	#LEXINGTON	#68850	#NE0042668	*	*	#001400000	#P 891001	#N
#S	#4 *		#P 881231	*		#89	*	* *

C--CONTINGENCY PROJECT D--PLANNING PROJECT S-- SRF PROJECT
#ACCEPTED EXTEND LIST CONST PROJ: 57 = CURR FY & A5 FY GE CURR FY & L5 NOT = 'A ' & P0 NOT = AB FB & 34 = C D & 04 = A C V OR N
#ACCEPTED LIST SRF PROJ: 57 = CURR FY AND 34 = S AND 04 = A V OR N >> STEPS ARE NOT CONSIDERED FOR SRF PROJ <<

RPT-NO: CGT-0037
RUN-DATE: 89-04-18

REGION: 07

NE ACCEPTED EXTENDED PROJECT PRIORITY LIST (NOT YET FUNDED)
FISCAL YEAR 1989
NEW LAW AND MARINE CSO PROJECTS BY APPLICANT NAME

```
          #NAME  12                                    #CAT I Y0      #CAT IVA Y4  #SMAL COMM 33 #ALT TECH Y8     #MULT FAC FA
POINTS H8 #STREET 51                    #NEEDS $ 32     #CAT II Y1     #CAT IVB Y5  #ELIG COST 29 #INOV TECH Y7   #PHAS COD FB
GRANT $   #CITY  14          #ZIP 52    #PERMIT# C2     #CAT IIIA Y2   #CAT V  Y6  #GRANT AMD 19 #APP IN ST P3   #NPP CODE FC
STAT 34 #STEP 87  #CONG DISTRICT 16     #CERT DATE A5   #CAT IIIB Y3                #FY PRIOR  57 #APP IN EPA L1   #FD       #FE
-------------------------------------------------------------------------------------------------------------------------------

          #LINCOLN, CITY OF                                    #009316800      #                #                #
100       #555 SOUTH 10TH                       #311425001     #               #                #009316800       #
317006N01 #LINCOLN              #68508          #NE0112488     #               #                #009316800       #P 891001      #N
#S      #4        #                             #P 891231      #                                #89              #             #

          #OMAHA, CITY OF                                      #003372500      #                #                #
100       #1819 FARNAM                          #311825001     #               #                #003372500       #              #S
310425C41 #OMAHA                #68183          #NE0012810     #               #                #002529400       #              #F
#D      #3        #02                           #P 891231      #                                #89              #             #

          #OMAHA, CITY OF                                      #000557300      #                #                #
100       #1819 FARNAM                          #311825001     #               #                #000557300       #              #S
310536C41 #OMAHA                #68183          #NE0036358     #               #                #000418000       #              #F
#D      #3        #02                           #P 900630      #                                #89              #             #

          #OMAHA, CITY OF                                      #004200000      #                #                #
100       #1819 FARNAM                          #311825001     #               #                #004200000       #              #
317005N01 #OMAHA                #68183          #NE0036358     #               #                #004200000       #P 891001      #N
#S      #4        #                             #P 891231      #                                #89              #             #

          #SALEM, VILLAGE OF                                   #000754600      #                #                #
100       #BOX 15                               #310907001     #               #                #000754600       #              #
310520N01 #SALEM                #68433          #NO-NUMBER     #               #                #000415000       #              #N
#D      #4        #                             #P 891231      #                                #89              #             #

          #SCOTTSBLUFF, CITY OF                                #001700000      #                #                #
100       #1818 AVENUE A                        #312185001     #               #                #001700000       #              #
317001N01 #SCOTTSBLUFF          #69361          #NE0036315     #               #                #001700000       #P 891001      #N
#S      #4        #                             #P 881231      #                                #89              #             #

          #STERLING, VILLAGE OF                                #000041000      #                #                #
100       #BOX 309                              #312320001     #               #                #000041000       #              #
317011N01 #STERLING             #68443          #NE0040967     #               #                #000041000       #P 891001      #N
#S      #4        #                             #P 891231      #                                #89              #             #

          #MAHOO, CITY OF                                      #000500000      #                #                #
100       #605 NORTH BROADWAY                   #310451001     #               #                #000500000       #              #
317010N01 #MAHOO                #68066          #NE0021679     #               #                #000500000       #P 891001      #N
#S      #4        #                             #P 891231      #                                #89              #             #
```

C--CONTINGENCY PROJECT D--PLANNING PROJECT S-- SRF PROJECT
#ACCEPTED EXTEND LIST CONST PROJ: 57 = CURR FY & A5 FY GE CURR FY & L5 NOT = 'A ' & P0 NOT = AB FB & 34 = C D & 04 = A C V OR N
#ACCEPTED LIST SRF PROJ: 57 = CURR FY AND 34 = S AND 04 = A V OR N >> STEPS ARE NOT CONSIDERED FOR SRF PROJ <<

RPT-NO: CGT-0037
RUN-DATE: 89-04-18

REGION:_07

NE ACCEPTED EXTENDED PROJECT PRIORITY LIST (NOT YET FUNDED)
FISCAL YEAR 1989
NEW LAW AND MARINE CSO PROJECTS BY APPLICANT NAME

```
          #NAME  12                                #CAT I Y0       #CAT IVA Y4   #SMAL COMM 33 #ALT TECH Y8     #MULT FAC FA
POINTS 58 #STREET 51                  #NEEDS # 32   #CAT II Y1      #CAT IVB Y5   #ELIG COST 29 #INOV TECH Y7    #PHAS COD FB
GRANT #   #CITY  14          #ZIP 52  #PERMIT# C2   #CAT IIIA Y2    #CAT V   Y6   #GRANT AMD 19 #APP IN ST P3    #NMP CODE FC
STAT 34 #STEP 87  #CONG DISTRICT 16   #CERT DATE A5 #CAT IIIB Y3                   #FY PRIOR  57 #APP IN EPA L1    #FD       #FE
-------------------------------------------------------------------------------------------------------------------------------

          #WISNER, CITY OF                          #000200000    #              #              #              #
100       #BOX 367                    #312665001    #             #              #000200000     #              #
317012N01 #WISNER             #68791  #NE0023957    #             #              #000200000     #P 891001      #N
#5      #4        #           #P 891231             #                            #89            #              #         #
```

C--CONTINGENCY PROJECT D--PLANNING PROJECT S-- SRF PROJECT
#ACCEPTED EXTEND LIST CONST PROJ: 57 = CURR FY & A5 FY GE CURR FY & L5 NOT = 'A ' & P0 NOT = AB FB & 34 = C D & 04 = A C V OR N
#ACCEPTED LIST SRF PROJ: 57 = CURR FY AND 34 = S AND 04 = A V OR N >> STEPS ARE NOT CONSIDERED FOR SRF PROJ <<

360

1988 Needs Survey
Report to Congress

Assessment of Needed Publicly Owned Wastewater Treatment Facilities in the United States

February 1989

U.S. Environmental Protection Agency
Office of Municipal Pollution Control (WH-546)
Washington, D.C. 20460
Tele. (202) 382-7251

Prepared Under Contract Number 68-03-3476

Acknowledgements

Many dedicated individuals have been involved in the 1988 Needs Survey. Though it is impossible to acknowledge the hard work of everyone, we would like to thank the EPA Regional and State Needs Survey Coordinators for their active support and continuing interest in the Needs Survey.

Region I - Hosur Chikkalingaiah

Connecticut - Dennis Greci
Maine - Dennis Purington
Massachusetts - Brian Jeans
New Hampshire - Tom Seigle
Rhode Island - Ray Pena
Vermont - Nopodon Sundarabhaya

Region II - Ray Kvalheim

New Jersey - Chet Feehan
New York - Mark Burdyl
Puerto Rico - Eva Hernandez
Virgin Islands - Francine Lang

Region III - Thomas O. Maher

Delaware - Roy R. Parikh
Dist. of Columbia - Mohsin Siddique
Maryland - Judy Marsh
Pennsylvania - C.T. Fasting
Virginia - Carrie Chumney
West Virginia - Rosalie Ortega

Region IV - Dorothy Rayfield

Alabama - David Hutchinson
Florida - Gerald Herting
Georgia - Verona Barnes
Kentucky - Aziz Ghazipour
Mississippi - Jon Huey
North Carolina - Daniel Blaisdell
South Carolina - Sam Grant
Tennessee - James M. Poff

Region V - Edwin C. Horn, Jr.

Illinois - James R. Leinicke
Indiana - Paul Serguta
Michigan - Janice L. Tompkins
Minnesota - John Hensel
Ohio - Orville Ball
Wisconsin - Dick Kalnicky

Region VI - Gene Wossum

Arkansas - Larry Wilson
Louisiana - Michael Vince
New Mexico - Cordelia Snow
Oklahoma - Glen Jones
Texas - Bill Allen

Region VII - Rosalie Minor

Iowa - Lavoy Haage
Kansas - Michael Tate
Missouri - Doug Garrett
Nebraska - Don Bahnke

Region VIII - Paula Cifka

Colorado - Bill McKee
Montana - Scott Anderson
North Dakota - Rod Beck
South Dakota - Terry Keller
Utah - Roger Bishop
Wyoming - Mike Hackett

Region IX - Kathi Barrett

Arizona - Ron Frey
California - Herb Deardorff
Hawaii - Dennis Tulang
Nevada - James B. Williams, Jr.
U.S. Territories - Kathi Barrett

Region X - Kathy Veit

Alaska - Dick Marcum
Idaho - Alan Stanford
Oregon - Ruby Lane
Washington - Aaren Purcell

Many thanks are due to Joe Spollen, Scott Dane, Linda Shanley, Ron Ragan, Bob Caprara, Elizabeth Bolt, Mary Anne DeHaven, Gerry Mangan, Andrea Parella, Nile Sullivan, and the rest of the staff at Roy F. Weston, Inc., contractor for the 1988 Needs Survey.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

FEB 10 1989

THE ADMINISTRATOR

Honorable Dan Quayle
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

Enclosed is the Environmental Protection Agency's (EPA) 1988 Needs Survey report on the "Assessment of Publicly Owned Wastewater Treatment Facilities in the United States." This report ~~is~~ required by Sections (205)(a) and 516(b)(1) of the Clean Water Act.

The 1988 Needs Survey, a joint effort by the States and EPA, assesses the capital investment required to build or improve needed municipal wastewater treatment facilities. The 1988 EPA estimates are limited to facilities that are eligible for construction grant funds, including categories eligible through the governors' discretionary authority under Section 201(g)(1) of the Clean Water Act. These estimates do not address the expanded eligibilities of the State Revolving Fund program established by the 1987 Amendments to the Act. The Report also highlights the current status of our Nation's municipal wastewater treatment infrastructure.

In conducting the 1988 Needs Survey, we concentrated on maintaining national consistency in estimating and reporting needs by applying the same documentation criteria established in the 1986 Survey. Only facilities with acceptable documentation of water quality or public health problems are included in the EPA estimates. As in the 1986 Needs Survey, we encouraged all States to submit separate estimates where they believe additional needs exist that could not satisfy the water quality/public health based documentation criteria. I believe these efforts have continued to improve the quality of the Survey.

I would be pleased to further discuss the results of this Survey at your convenience.

Sincerely,

William K. Reilly

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

FEB 10 1989

THE ADMINISTRATOR

Honorable James C. Wright
Speaker of the House
of Representatives
Washington, D.C. 20510

Dear Mr. President:

Enclosed is the Environmental Protection Agency's (EPA) 1988 Needs Survey report on the "Assessment of Publicly Owned Wastewater Treatment Facilities in the United States." This report is required by Sections (205)(a) and 516(b)(1) of the Clean Water Act.

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I would be pleased to further discuss the results of this Survey at your convenience.

Sincerely,

William K. Reilly

Enclosure

Executive Summary

The 1988 Needs Survey, a joint effort between the States and EPA, was conducted to meet the requirements of Sections 205(a) and 516(b)(1) of the Clean Water Act.

This report provides EPA's detailed estimate of the capital costs to build publicly owned municipal wastewater treatment facilities to comply with the requirements of the Clean Water Act. The 1988 Needs Survey focuses on construction grant eligible category of need, rather than the expanded State Revolving Fund eligibilities under the 1987 Amendments to the Clean Water Act.

EPA's needs estimates include those facilities for which a water quality or public health problem could be documented in accordance with specific criteria established in the 1986 Survey.

The needs for documented facilities are:

- $83.5 billion to satisfy all categories of need for the design year (2008) population.
- $67.9 billion to satisfy all categories of need for the current (1988) population.

The total design year needs for the Nation rose by $2.9 billion (4 percent) from 1986 to 1988. Compared to previous Surveys, the overall change is small which suggests that grant-eligible needs are beginning to stabilize. The increase was due to a variety of factors. The major reason for the change is revised planning and design of facilities to address changes in project scope, including level of treatment, size of facilities, and greater focus on sludge treatment and disposal and new water quality-based permits.

States submitted separate optional estimates for needs they believed to be authentic but did not meet the established documentation criteria. A total of 39 States and Territories submitted separate estimates for the 1988 Survey totaling $15.9 billion in design year needs.

The 1988 Needs Survey identified a total of 10,835 facilities with documented water quality or public health problems of which 6,248 are treatment facilities. A total of 15,591 treatment facilities are operating in 1988, and 17,374 facilities will be in operation when all documented needs are met. These operating facilities currently serve a population of 176 million, representing 71 percent of the Nation's population. When all needs are met, the population served will increase to 248 million or 87 percent of the Nation.

Eighty-eight percent of existing treatment facilities currently provide secondary treatment or better. When design year needs are met, nearly all treatment facilities will provide secondary or better treatment. Currently, 13,802 facilities are providing secondary or better levels of treatment (up 4 percent from 1986), 1,789 facilities with less than secondary treatment (down 12 percent from 1986), and 117 collection facilities with raw discharges (down 21 percent from 1986).

Over 1,100 collection systems have combined sewer systems. Of these, 328 have documented needs in the 1988 Survey, totaling $16.4 billion to correct combined sewer overflow problems.

In a separate assessment required by the 1987 Amendments of the Clean Water Act, EPA estimated the current wastewater treatment needs of Federally recognized Indian Tribes at approximately $270 million (in 1987 dollars) to serve over 400,000 Indians with identified needs. The assessment was conducted in cooperation with the Indian Health Service of the

Department of Health and Human Services, and a report on Indian needs will be delivered to Congress under separate cover in early 1989. The 1987 Amendments authorized a special set-aside of approximately $30 million to fund wastewater treatment projects for Federally recognized Indian Tribes on reservations. A 1988 Amendment extended set-aside eligibility to Tribes on former reservations in Oklahoma and Alaska Native Villages, as defined in P.L. 92 - 203.

Introduction

What is the Needs Survey?

This report summarizes the Environmental Protection Agency's (EPA) biennial assessment of the cost of constructing all publicly owned wastewater treatment works necessary to meet the goals of the Clean Water Act. This report is required by Sections 205(a) and 516(b)(1) of the Clean Water Act. The 1988 Needs Survey, a joint effort of the States and EPA, is the ninth Needs Survey since enactment of the Federal Water Pollution Control Act Amendments of 1972.

Cost estimates presented in previous Surveys have served as a basis for Congressional allotment of funds appropriated for the construction grants program in accordance with the provisions of the Clean Water Act. The Needs Survey is also used extensively to assist the Federal government and the States in program planning, policy evaluation, and program management. Private firms, public interest groups, and trade associations use Needs Survey information in marketing, cost estimating, and policy formulation.

The Needs Survey data base contains cost and technical information on approximately 24,153 wastewater treatment and collection facilities nationwide, including facilities with unmet needs and those for which needs have already been met. The primary emphasis of this report is to summarize the cost information. Summaries of technical data are provided in Appendix C. More detailed technical tables will be published as an addendum to this report.

What is a "Need"?

A "need" is a capital cost estimate for building a publicly owned wastewater treatment facility that may be eligible for Federal financial assistance under Title II of the Clean Water Act. Needs are estimated for facilities used in the conveyance, storage, treatment, recycling, and reclamation of municipal wastewater. Estimates are included for all types of required changes to wastewater facilities, such as the construction of entirely new facilities, and enlarging, upgrading, abandoning, and replacing existing facilities. Existing facilities are considered for replacement when they have reached the end of their design life and are no longer able to operate satisfactorily. Other types of changes to existing facilities are projected as a response to new statutory requirements of the Clean Water Act (1987 Amendments).

Needs estimates do not include costs for operation and maintenance. They also do not include needs that are ineligible for Federal assistance under Title II of the Clean Water Act (1987 Amendments), such as house connections to sewers and certain land acquisition costs not part of a treatment process, nor do they include needs that are newly eligible under Title II or Title VI, such as stormwater, nonpoint source control, or estuary protection activities.

The Needs Survey estimates are collected and reported by States in two ways. The first is by type of wastewater treatment project; the second is by timeframe.

Type of Wastewater Treatment Project

The types of wastewater treatment projects for which needs estimates are presented are:

- Category I - Secondary Treatment
- Category II - Advanced Treatment
- Category IIIA - Infiltration/Inflow Correction
- Category IIIB - Replacement/Rehabilitation of Sewers
- Category IVA - New Collector Sewers
- Category IVB - New Interceptor Sewers
- Category V - Combined Sewer Overflows

Typically, costs for Categories IIIB (replacement/rehabilitation of sewers), IVA (new collector sewers), and V (combined sewer overflows) are ineligible for Federal financial assistance. However, costs for these categories are included because the Clean Water Act provides a governor with discretionary funding authority to use up to 20 percent of a State's construction grant allotment in any fiscal year for these project categories. Because there is no way of knowing which facilities will be funded, or how much of the 20-percent discretionary funding authority will be used in any State, the entire need is reported in the Survey. More detailed explanations of each category can be found in the Glossary of Terms.

Timeframe

EPA estimates the capital investment necessary to address municipal wastewater treatment needs for two points in time:

1. **Current Needs** - needs for documented facilities to satisfy the current population on January 1, 1988.

2. **Design Year Needs** - Total needs for documented facilities to satisfy the design year population. Year 2008 is used as the design year to better approximate a 20-year design life for facilities in the Needs Survey. Design year needs include current needs as a subset.

In previous Surveys, we have also reported maximum eligible needs, i.e., the portion of the design year needs eligible for Federal financial assistance in accordance with Section 204(a)(5) reserve capacity limitations of the Clean Water Act. This provision limits grant-eligible needs to that portion of a treatment works providing capacity to the existing population on the date of grant approval, or September 30, 1990, whichever date is earlier.

The 1987 Amendments provided for a transition from the traditional construction grant program to a State revolving loan program (SRF). Under the SRF Program, States will have the discretion to finance the construction of reserve capacity for future needs, therefore, the estimate of maximum eligible needs is no longer needed.

The 1988 Needs Survey

What Were The Major Objectives?

The 1988 Needs Survey focused on grant-eligible categories of need, rather than the expanded eligibilities under the 1987 Amendments to the Clean Water Act. The major objective of the 1988 Survey was to update the 1986 cost estimates on all municipal wastewater treatment facilities. We applied the same documentation criteria established in the 1986 Needs Survey to ensure that a water quality or public health problem existed. These criteria were maintained to provide national consistency in estimating and reporting needs.

We also encouraged States to update the technical data on wastewater treatment facilities such as flow, pollutant characteristics, treatment processes, and population estimates. Many of the States were successful in providing more current information. However, some States did not have resources to collect and report this information to EPA.

What Are the Needs?

EPA's estimates of the capital investment necessary to address the Nation's municipal wastewater treatment needs are presented in Table 1. An estimated $83.5 billion is required to satisfy the total needs of facilities with documented water quality or public health problems. Of this amount, $67.9 billion is needed to satisfy the needs of the population in existence on January 1, 1988 within the service area of these facilities. The $15.6 billion difference represents needs to serve population growth within these service areas between 1988 and 2008 (the design year population).

If only Categories I, II, IIIA, and IVB are considered, the design year needs are reduced to $49.6 billion and the corresponding needs for the current population drop to $36.9 billion. These categories include secondary and advanced treatment, infiltration/inflow correction, and new interceptor sewers.

The relationship of design year needs to current needs is shown in Figure 1.

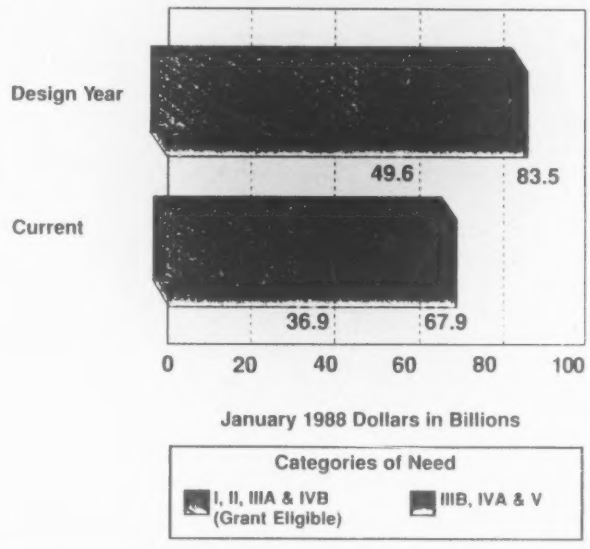
Table 1

Needs for Publicly Owned Wastewater Treatment Facilities
(January 1988 Dollars in Billions)

Needs Category		Current Needs	Design Year Needs
I	Secondary Treatment	20.2	26.8
II	Advanced Treatment	3.9	5.0
IIIA	Infiltration/Inflow Correction	2.9	2.9
IIIB	Replacement/Rehabilitation*	3.7	3.7
IVA	New Collector Sewers*	10.9	13.8
IVB	New Interceptor Sewers	9.9	14.9
V	Combined Sewer Overflows*	16.4	16.4
CATEGORIES I - V		67.9	83.5
TREATMENT CATEGORIES I & II		24.1	31.8
CATEGORIES I,II,IIIA, & IVB		36.9	49.6

* For these categories under Title II of the Clean Water Act, a governor may use up to 20 percent of a State's allotment in any fiscal year; however, combined sewer overflow projects funded under Section 201(n) (1) may exceed this amount.

Figure 1: Current and Design Year Needs for Publicly Owned Wastewater Treatment Facilities



How Are the Needs Distributed?

To show how documented needs are distributed geographically throughout the Nation, we have disaggregated them by State. Figure 2 presents design year needs for Categories I through V, and shows that needs are generally concentrated in highly populated States such as Texas, Florida, New York, and California. Midwestern States are generally less populated, and consequently have lower needs. Figure 3 shows the needs for projected population growth (design year needs minus current needs). The distribution of States with the highest growth needs is similar to that shown in Figure 2, with the addition of Arizona, Tennessee, and North Carolina. Appendix A provides a detailed presentation of needs for each State and U.S. Territory.

Figure 2: Design Year Needs by State

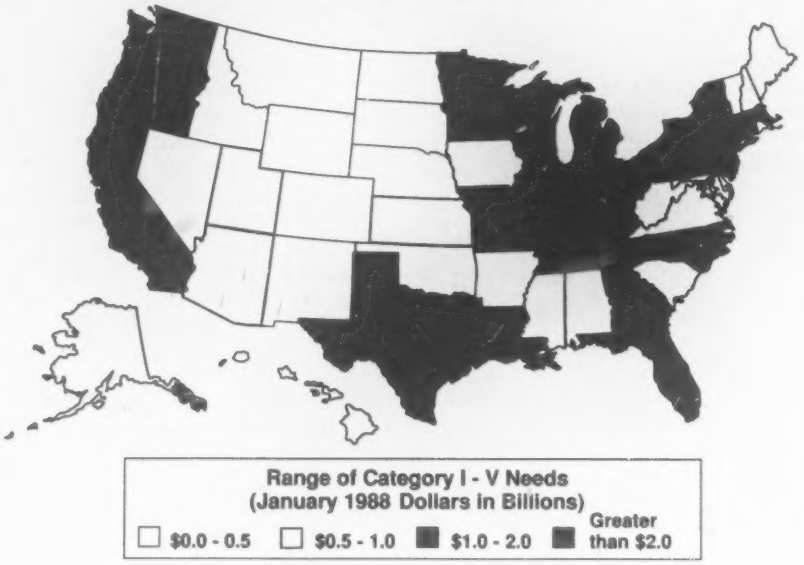
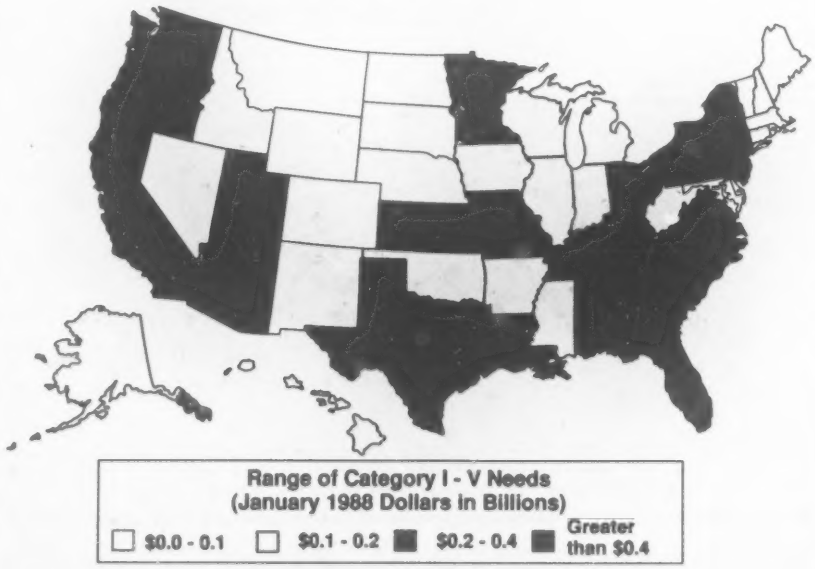


Figure 3: Needs for Projected Population Growth (1988 - 2008) by State



How Were the Needs Documented?

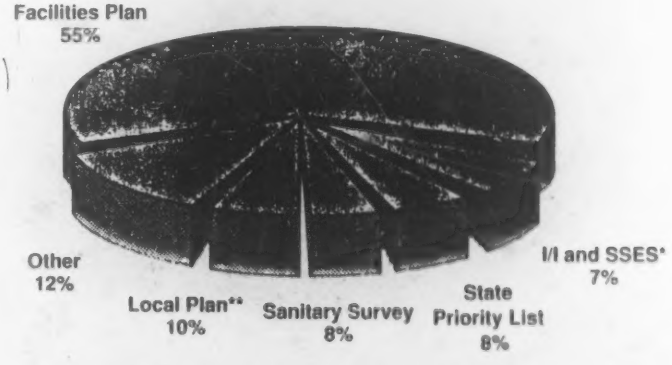
The documentation criteria for the 1988 Needs Survey did not change from the 1986 Needs Survey. EPA reviewed State-submitted documentation for each facility and each category of need to ensure that the documentation met the established list of criteria and was:

- based on a *public health* or *water quality* problem.
- A *current* problem (e.g., needs solely for future growth were unacceptable).
- *Project specific* (e.g., documentation describing a county-wide problem of septic system failures due to poor soils was unacceptable to document the needs of a particular town in that county).

States were also required to document their cost estimates in addition to their water quality or public health problems. The established documentation types were also used to verify cost estimates. The 17 EPA-approved documentation types for the 1988 Needs Survey are listed and defined in Appendix D.

Once a State adequately documented a water quality or public health problem, EPA accepted it into the Needs Survey whether or not a documented cost estimate was available. For needs with undocumented or unavailable cost estimates, EPA used nationally derived cost curves to calculate the dollar amount.[1] The curves used level of treatment (e.g., secondary or advanced), general type of treatment (e.g., lagoon or mechanical plant), population, flow, and type of proposed improvement (e.g., upgrade, enlargement, abandonment, or reconstruction) to generate cost estimates. Some States maintain that not all their legitimate needs were included in the Survey because of the established documentation requirements. State concerns regarding documentation are presented in the section entitled "What are the Separate State Estimates?"

Figure 4: Facility Documentation Types (By Percent of Facilities)



*Infiltration/Inflow Analysis and Sewer System Evaluation Survey
**Includes Capital Improvement Plan, Area-Wide or Regional Basin Plan, Local/County Comprehensive Water and Sewer Plan, and Plan of Study

[1]Texas and Connecticut use their own State-derived and EPA-accepted cost curves to estimate costs for their sewers.

The most prevalent form of documentation used to substantiate a water quality or public health problem is a facilities plan. The resulting distribution of documentation types for facilities in the 1988 Needs Survey is depicted in Figure 4. Likewise, Appendix D illustrates that the majority of cost estimates are based on facilities plans and other planning documents.

How Have The Needs Changed?

After accounting for inflation, the total design year needs increased by $2.9 billion, approximately 4 percent, from 1986 to 1988. Estimates from the 1986 Survey are summarized by State in Appendix B.

This net change since the 1986 Survey is due to several factors, primarily *revised planning and design* of facilities, which account for an increase of $4.6 billion. Such revisions resulted from changes to the scope of facilities, including level of treatment, size of facilities, and new requirements being imposed by State governments in response to the 1987 CWA Amendments. These new requirements address sludge treatment and disposal, including toxics in sludge, and other new provisions of the CWA. Some States are also imposing more stringent effluent limits in new water quality-based permits.

The second major reason for the change in needs is that some needs were met through *grant awards* between January 1986 and January 1988, accounting for a decrease of $3.6 billion. The third major reason for change between the 1986 and 1988 Surveys is recently identified needs for *new wastewater treatment facilities*, accounting for an increase of $1.9 billion.

Needs have varied considerably from Survey to Survey. A comparison of the design year needs for the four most recent Surveys is presented in Table 2 and Figure 5. The most significant feature of this table is the $63.6 billion (43 percent) decrease in needs from 1982 to 1988. This decrease is due to several factors including the emphasis on documentation requirements which began with CSO (Category V) needs in the 1984 Survey and was extended in 1986 to all categories of need. Table 2 shows that the needs categories with the largest dollar changes are combined sewer overflows (Category V), sewer replacement /rehabilitation (Category IIIB), and new collector sewers (Category IVA). Combined sewer overflow needs increased by $0.7 billion, accounting for 24 percent of the increase from 1986 to 1988, and sewer replacement /rehabilitation and new collector needs increased by $0.6 billion (21 percent of the increase) each.

Between 1986 and 1988, the total number of existing treatment and collection facilities increased by about 183 to 24,133 in the 1988 Survey. Of the total 24,133 treatment and collection facilities included in the 1988 Survey, 10,835 have remaining needs. This represents an increase of 7 percent from the number of facilities with needs in the 1986 Survey.

What Are the Separate State Estimates?

Needs documented in accordance with the 17 criteria discussed in the section entitled "How Were the Needs Documented?" and described in detail in Appendix D are included in the EPA estimates in Tables 1 and 2. Needs that could not be documented with any of the 17 accepted criteria but which States believe are valid needs are included in the separate State estimates in Table 3. States had the option, if available resources permitted, to submit separate State estimates for needs with documentation outside the 17 established criteria or without written documentation. The level of effort by each State varied as separate State

Table 2

**Comparison of Total Design Year Needs -
1982 Through 1988 Needs Surveys***
(January 1988 Dollars in Billions Except as Noted)

Needs Category		1982 Survey	1984 Survey	1986 Survey	1988 Survey
I	Secondary Treatment	40.7	38.1	26.3	26.8
II	Advanced Treatment	7.5	6.5	4.8	5.0
IIIA	Infiltration/Inflow Correction	3.1	3.0	2.6	2.9
IIIB	Replacement/Rehabilitation	5.7	3.4	3.1	3.7
IVA	New Collector Sewers	25.1	23.7	13.2	13.8
IVB	New Interceptor Sewers	21.8	20.6	14.9	14.9
V	Combined Sewer Overflows	43.2	25.2	15.7	16.4
CATEGORIES I - V		147.1	120.5	80.6	83.5
TREATMENT CATEGORIES I & II		48.2	44.6	31.1	31.8
CATEGORIES I,II,IIIA, & IVB		73.1	68.2	48.6	49.6
CATEGORIES I - V (Nominal Dollars)		118.4	108.9	77.6 **	83.5

* The design year for needs estimates usually changes for each needs survey. The 1982 and 1984 Surveys estimated design year needs for the year 2000 population. The 1986 Survey estimated needs for the year 2005 population, and the 1988 Survey estimates needs for the year 2008 population to better approximate a 20-year design life for the facilities in the Survey. For comparison purposes, all the needs have been presented in January 1988 dollars. EPA has also included total needs in nominal dollars (the face dollar value not adjusted for inflation) so that these numbers can be compared to past Survey reports.

** A modification to the published needs estimates in the 1986 Survey has been made to account for an inflation adjustment.

**Figure 5: Comparison of Total Design Year Needs
(1982 through 1988 Needs Surveys)**

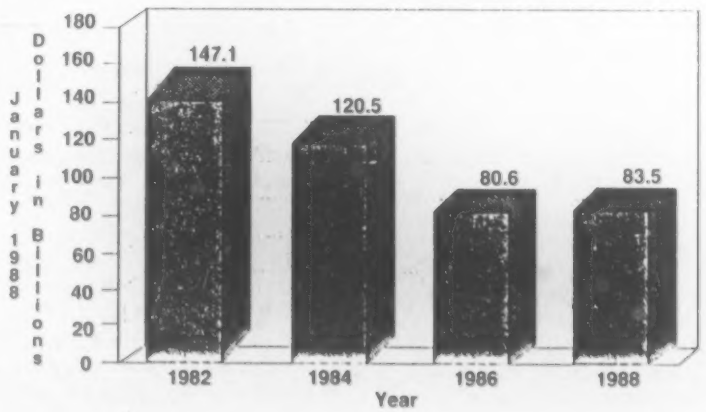


Table 3

Separate State Estimates -
Current and Design Year Needs
(Dollars in Millions)

	Current	Design Year		Current	Design Year
Alabama	12	13	New Mexico	108	111
Arizona	112	210	New York	6310	6316
Arkansas	228	312	North Carolina	7	10
California	759	2003	Oregon	275	541
Connecticut	175	177	Pennsylvania	1757	1852
Florida	19	39	Rhode Island	46	46
Georgia	11	14	South Carolina	69	112
Illinois	792	792	South Dakota	1	1
Indiana	10	260	Texas	4	11
Kansas	0	0 *	Utah	377	566
Kentucky	8	31	Virginia	423	424
Louisiana	78	104	Washington	75	142
Maine	863	872	West Virginia	127	139
Maryland	57	60	Wisconsin	36	46
Michigan	0 *	0 *	Wyoming	18	18
Mississippi	114	167	Guam	0	1
Missouri	64	80	Marshall Islands	9	9
Montana	2	15	Puerto Rico	258	327
Nevada	12	18			
New Hampshire	55	11	Total	13278	15857
New Jersey	7	7			

* Estimate less than $0.5 million.

estimates were voluntary, not mandatory. The reported needs are not all inclusive or representative of the total needs that would be reported as separate State estimates if State resources allowed. The types of needs identified by the individual States are too varied to allow comparisons or conclusions on a national basis.

A total of 39 States and Territories submitted separate State estimates compared to only 12 in 1986. The design year separate State estimates total $15.9 billion, an increase of $456 million (3 percent) from 1986 to 1988. The separate State estimates are *in addition* to the EPA estimates. If these estimates are added to the EPA assessment, the total design year needs for 1988 would be $99.4 billion, or 19 percent more than the EPA estimate. A detailed listing of the current and design year separate State estimates are included in Appendix A.

In general, the States reported the following types of additional needs:

- Needs to build or expand a centralized system for communities on *individual systems*. Specific plans or studies (in accordance with the 17 criteria) describing a current problem often do not exist. Also, many communities on septic systems may not have an existing problem, but States believe these systems will fail in the future due to differentiation in lot sizes, or soil or hydrological conditions.

- Needs to address *combined sewer overflow* problems where no formal study is available to document evidence of a public health or water quality problem.

- Needs that are strictly for *future growth* without any current public health or water quality problems. Although they may become docu-

mented needs in the future, they were systematically excluded from the Survey because of the emphasis on current problems.

- Needs for facilities that are now operating at a satisfactory level, but which are projected to need *replacement* during the next 20 years and presently have no planning documentation.

- Other needs (e.g., needs ineligible for construction grant funding, needs using different estimation procedures, or needs not covered by the aforementioned reasons).

What is the Status of Municipal Wastewater Treatment Infrastructure?

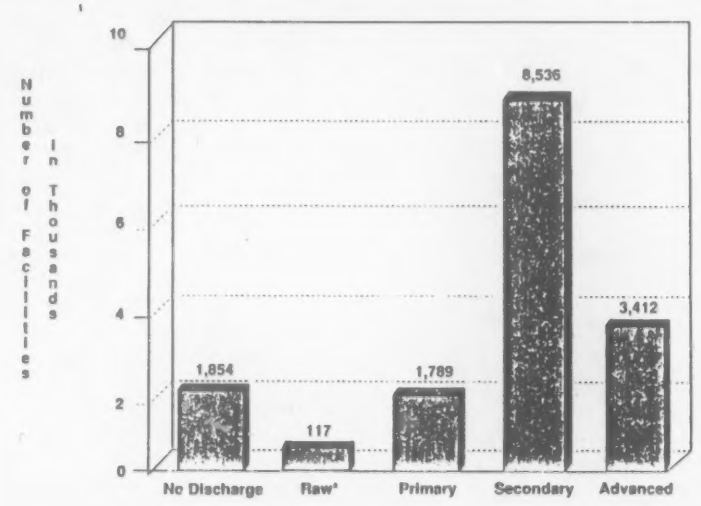
The Federal investment in construction grants, combined with State and local matching funds, has yielded significant infrastructure improvements in our municipal wastewater treatment capabilities. In the last 10 years, the number of secondary and advanced treatment facilities has steadily increased. Municipalities currently operate over 24,000 treatment and collection facilities, of which 15,591 provide treatment. Presently, 13,802 or approximately 90 percent of all treatment facilities are providing at least secondary treatment. However, 117 remaining collection facilities discharge raw sewage. Figure 6 characterizes the current treatment capabilities for all operating domestic wastewater facilities.

A total of $49.6 billion is needed to meet design year needs in Categories I, II, IIIA, and IVB. The infrastructure improvements from meeting these needs are summarized in Table 4.

Combined Sewer Overflow Control

Over 1,100 collection systems around the country (serving approximately 40 million people) have combined sewer systems where both sanitary sewage and stormwater are collected and treated. Most combined sewer systems have the capacity to handle both stormwater and wastewater flow; however, during larger storm events, the flow capacity of these sewer systems may be exceeded. Often the excess flow containing raw sewage, industrial wastewater, and stormwater is discharged untreated. Current documented needs to control and treat CSOs total $16.4 billion for 328 CSO systems. These CSO systems, with documented needs in the 1988 Survey, serve approximately 25 million people. Over half of the documented national CSO needs are for 53 marine and estuarine CSO systems serving approximately 12 million people.

Figure 6: 1988 Treatment Level of Operational Facilities



Total Number of Operational Facilities in 1988 = 15,591

* Raw discharge facilities are considered collection, not treatment, facilities.

Table 4

Infrastructure Improvements From Meeting Design Year Needs

INDICATOR	IMPROVEMENT (1988-2008) FROM	TO	CHANGE
Number of treatment facilities providing secondary or more advanced treatment	13,802	17,315	+25%
Number of treatment facilities providing less than secondary treatment	1,789	48	-97%
Number of raw discharge facilities	117	0	-100%
Flow capacity (million gallons per day)	37,639	44,269	+18%
Population receiving treatment (millions)	176	248	+41%
Biochemical oxygen demand removed by treatment (tons per day)	20,467	35,913	+75%
Total suspended solids removed by treatment (tons per day)	23,353	37,766	+62%

Impacts of the 1987 Amendments to the Clean Water Act

A total of $50.6 billion has been obligated through the construction grant program as of September 30, 1988.

Construction grants have been awarded primarily for the needs of municipal wastewater treatment facilities. This includes limited funding of related facilities such as combined sewer overflow correction under the Governor's 20 percent discretionary fund in the construction grants program. The governor's discretionary fund was broadened in the 1987 Amendments to allow funding of nonpoint source and groundwater activities.

The 1987 Amendments also introduced a major change in the financing of municipal wastewater treatment facilities. Federal financial assistance will be through the State Revolving Fund (SRF) in which municipalities may apply for a low-interest rate loan or other assistance rather than a traditional construction grant.

The SRF program gives the States more flexibility in the types of projects which can receive funding, including estuarine, nonpoint source, and combined sewer overflow projects. After certain requirements are met, States can allocate SRF funding to a broader range of projects, addressing problems that they consider most significant in terms of achieving their water quality goals.

In the Amendments, Congress authorized $18 billion for water pollution control through fiscal year (FY) 1994, $9.6 billion for the existing construction grant program through FY 1990, and $8.4 billion in "seed" money to capitalize the SRF program through FY 1994. Under the 1987 Amendments, there are new enforceable requirements for stormwater, toxics, and sludge problems, which will have to be addressed once EPA completes development of the regulations. The status and impacts of the SRF program will be addressed in the SRF Report to Congress due in 1990 under Section 516(g) of the Clean Water Act. The 1988 Needs Survey will serve as the basis for estimating needs of noncompliant facilities in the SRF Report to Congress. In addition to preliminary projections of the SRF program, the report will provide a construction grant baseline against which future SRF data can be compared.

Appendices

These Appendices contain State and national summaries of various cost and technical data. Appendix A presents cost data from the 1988 Needs Survey, including summaries by State of Current Needs, Design Year Needs, and Separate State Estimates. Appendix B contains a summary of 1986 needs estimates by State. Appendix C contains selected technical data from the 1988 Survey. Appendix D contains a summary of acceptable documentation for the 1988 Needs Survey.

Appendix A
Summary of 1988 Needs Survey Estimates

Current Design Year, and Separate State Estimates

Table A-1

1988 Needs Survey
Current Needs for Publicly Owned Wastewater Treatment Works Eligible for Federal Financial Assistance under the Clean Water Act

Table A-1 summarizes the 1988 EPA assessment of documented needs by State for the current population.

The current needs represent the capital investment necessary to build all needed publicly owned wastewater treatment facilities to meet the requirements of the Clean Water Act. The current needs do not contain an allowance for future population growth and migration. The assessment includes all planning, design, and construction activities eligible for Federal financial assistance under the Clean Water Act. All ineligible project costs are excluded from the assessment. States were asked to provide both design year and current needs for all facilities in the 1988 Survey. For facilities where the current needs were unavailable, the EPA estimated them by prorating needs based on the ratio of 1988 to 2008 populations.

Needs estimates presented in Table A-1 may vary slightly from those presented in Table 1 due to rounding.

Table A-1

1988 Needs Survey
Current Needs for Publicly Owned Wastewater Treatment Works Eligible for Federal Financial Assistance under the Clean Water Act
(January 1988 Dollars in Millions)

	Total	Category of Need I	II	IIIA	IIIB	IVA	IVB	V	I,II, IIIA,IVB
Alabama	547	168	66	93	18	116	86	0	413
Alaska	107	46	0	5	0	19	37	0	88
Arizona	542	297	81	2	2	47	113	0	493
Arkansas	257	118	20	56	3	31	29	0	223
California	5257	2472	26	358	652	341	367	1041	3223
Colorado	163	56	66	2	7	4	28	0	152
Connecticut	1267	270	102	25	16	287	175	392	572
Delaware	82	39	2	0	0 *	26	14	1	55
Dist. of Columbia	274	95	179	0	0	0	0	0	274
Florida	3984	907	252	42	24	2150	607	2	1808
Georgia	615	169	89	44	26	56	151	80	453
Hawaii	236	97	3	0	0	92	44	0	144
Idaho	65	28	3	5	3	15	10	1	46
Illinois	2764	362	263	81	39	92	237	1690	943
Indiana	1582	184	102	48	10	190	104	944	438
Iowa	511	221	51	50	2	38	144	5	466
Kansas	485	123	2	82	56	43	164	15	371
Kentucky	1108	137	50	78	12	544	264	23	529
Louisiana	854	321	22	59	34	245	173	0	575
Maine	288	126	1	25	11	58	47	20	199
Maryland	866	168	395	40	0 *	49	205	9	808
Massachusetts	5445	2466	15	40	18	574	618	1714	3139
Michigan	3125	793	28	68	26	385	696	1129	1585
Minnesota	902	321	51	19	167	26	99	219	490
Mississippi	410	156	51	64	2	62	75	0	346
Missouri	955	425	1	10	70	54	252	143	688
Montana	57	17	2	0 *	9	19	10	0 *	29
Nebraska	99	50	2	1	8	8	10	20	63
Nevada	101	55	22	2	3	12	7	0	86
New Hampshire	709	104	6	9	5	210	144	231	263
New Jersey	3351	1380	167	240	319	301	153	791	1940
New Mexico	92	53	0 *	1	16	8	14	0	68
New York	11683	1832	174	164	1583	1185	984	5761	3154
North Carolina	1212	265	184	87	45	301	329	1	865
North Dakota	31	15	0	0	10	0	6	0	21
Ohio	3141	577	317	278	61	565	759	584	1931
Oklahoma	285	77	73	12	12	30	81	0	243
Oregon	982	211	123	45	147	36	58	102	437
Pennsylvania	1439	570	97	16	9	0	128	119	811
Rhode Island	364	15	4	0 *	0	76	62	206	82
South Carolina	441	168	23	21	0	76	153	0	365
South Dakota	81	50	3	2	2	10	12	2	67
Tennessee	898	339	73	155	18	212	92	9	659
Texas	3306	1273	415	245	79	279	1015	0	2948
Utah	292	173	32	39	4	24	20	0	264
Vermont	202	63	28	1	4	16	16	74	108
Virginia	755	226	45	30	10	120	118	206	419
Washington	2143	865	18	130	79	207	287	557	1300
West Virginia	852	276	21	23	17	334	168	13	488
Wisconsin	1204	513	141	56	2	131	139	222	849
Wyoming	17	8	0	1	2	1	5	0	14
American Samoa	10	3	0	0	0	5	2	0	5
Micronesia	67	53	0	0	0 *	10	4	0	57
Guam	21	16	0	0 *	0	3	2	0	18
Marshall Islands	24	18	0	0	0	2	4	0	22
Northern Marianas	25	11	0	0	0 *	3	11	0	22
Republic of Palau	11	10	0	0	0	0	1	0	11
Puerto Rico	1146	340	5	37	15	380	348	21	730
Virgin Islands	17	6	0	0 *	0	8	3	0	9
Total	67749	20198	3896	2891	3657	10876	9884	16347	36869

* Estimate less than $0.5 million.

Table A-2

1988 Needs Survey
Design Year Needs for Publicly Owned Wastewater Treatment Works

Table A-2 summarizes the 1988 EPA assessment of documented needs by State to satisfy the design year (2008) population.

The total design year needs represent the capital investment necessary to build all publicly owned wastewater treatment facilities that have met the established documentation criteria. These are the funds necessary to provide adequate wastewater treatment systems for the 1988 population, plus population growth and migration for the next 20 years. The assessment includes all planning, design, and construction activities considered eligible for funding under the Clean Water Act.

Needs estimates presented in Table A-2 may vary slightly from those presented in Tables 1 and 2 due to rounding.

1988 Needs Survey
Design Year Needs for Publicly Owned Wastewater Treatment Works
(January 1988 Dollars in Millions)

	Total	Category of Need I	II	IIIA	IIIB	IVA	IVB	V	I,II, IIIA,IVB
Alabama	781	232	92	93	10	152	194	0	611
Alaska	221	94	0	5	0	19	103	0	202
Arizona	979	611	81	2	2	55	228	0	922
Arkansas	370	189	26	56	3	46	50	0	321
California	6539	3306	79	358	652	397	706	1041	4449
Colorado	196	75	69	2	7	4	39	0	185
Connecticut	1392	294	127	25	16	333	205	392	651
Delaware	127	48	2	0	0 *	43	33	1	83
Dist. of Columbia	278	99	179	0	0	0	0	0	278
Florida	6186	1961	466	42	24	2397	1294	2	3763
Georgia	1007	307	129	44	26	82	339	80	819
Hawaii	413	170	4	0	0	138	101	0	275
Idaho	124	65	8	5	3	22	20	1	98
Illinois	2958	475	284	81	39	108	281	1690	1121
Indiana	1721	224	113	48	10	259	123	944	508
Iowa	646	256	55	50	2	42	236	5	597
Kansas	720	190	3	82	56	46	328	15	603
Kentucky	1457	185	60	78	12	671	428	23	751
Louisiana	1189	474	31	59	34	323	268	0	832
Maine	341	149	1	25	11	84	51	20	226
Maryland	919	183	408	40	0 *	56	223	9	854
Massachusetts	5836	2526	34	40	18	731	773	1714	3373
Michigan	3321	845	31	68	26	455	767	1129	1711
Minnesota	1106	486	64	19	167	28	123	219	692
Mississippi	548	217	65	64	2	81	119	0	465
Missouri	1222	514	1	10	70	67	417	143	942
Montana	69	21	4	0 *	9	23	12	0 *	37
Nebraska	114	64	2	1	8	8	11	20	78
Nevada	165	83	41	2	3	17	19	0	145
New Hampshire	854	130	9	9	5	260	210	231	358
New Jersey	3754	1632	199	240	319	385	188	791	2259
New Mexico	130	55	0 *	1	16	31	27	0	83
New York	12721	1908	198	164	1583	1948	1159	5761	3429
North Carolina	1799	408	223	87	45	432	603	1	1321
North Dakota	34	17	0	0	10	0	7	0	24
Ohio	3579	725	359	278	61	672	900	584	2262
Oklahoma	476	188	105	12	12	30	129	0	434
Oregon	1273	386	131	45	147	331	131	102	693
Pennsylvania	1644	638	113	16	9	600	149	119	916
Rhode Island	408	37	4	0 *	0	91	70	206	111
South Carolina	684	260	32	21	0	99	272	0	585
South Dakota	87	54	3	2	2	10	14	2	73
Tennessee	1467	479	105	155	18	280	421	9	1160
Texas	4975	2089	672	245	79	357	1533	0	4539
Utah	583	397	65	39	4	31	47	0	548
Vermont	209	65	29	1	4	20	16	74	111
Virginia	957	316	83	30	10	146	166	206	595
Washington	2685	1054	23	130	79	299	543	557	1750
West Virginia	976	314	23	23	17	387	199	13	559
Wisconsin	1399	502	198	56	2	180	159	222	995
Wyoming	18	9	0	1	2	1	5	0	15
American Samoa	20	6	0	0	0	11	3	0	9
Micronesia	78	58	0	0	0 *	15	5	0	63
Guam	42	30	0	0 *	0	8	4	0	34
Marshall Islands	32	24	0	0	0	2	6	0	30
Northern Marianas	49	20	0	0	0 *	5	24	0	44
Republic of Palau	15	14	0	0	0	0	1	0	15
Puerto Rico	1592	586	5	87	15	476	452	21	1080
Virgin Islands	27	10	0	0 *	0	8	9	0	19
Total	83512	26834	5038	2891	3657	13802	14943	16347	49706

* Estimate less than $0.5 million.

Table A-3

1988 Needs Survey
Separate State Estimates for Current Needs

Table A-3 summarizes the States' assessment of current needs for selected wastewater treatment facilities that the States believe to be legitimate, but that either were justified with documents outside the established documentation criteria of the Survey or had no written documentation. The Separate State Estimates are optional and in addition to the EPA estimates. These needs are shown in Table A-3 by category of need.

Needs estimates presented in Table A-3 may vary slightly from those presented in Table 3 due to rounding.

1988 Needs Survey
Separate State Estimates for Current Needs
(Dollars in Millions)

	Total	Category of Need I	II	IIIA	IIIB	IVA	IVB	V	I,II, IIIA,IVB
Alabama	12	1	0 *	0	0	1	10	0	11
Arizona	112	83	0 *	0	0	19	10	0	93
Arkansas	228	79	31	10	7	66	35	0	155
California	759	639	2	12	18	19	69	0	722
Connecticut	175	169	0	0	0	5	1	0	170
Florida	19	0	0	0	0	0	19	0	19
Georgia	11	0	0	0	0	0	11	0	11
Illinois	792	6	2	65	608	6	4	101	77
Indiana	10	4	0 *	0	0	5	1	0	5
Kentucky	8	0 *	0 *	1	0	5	2	0	3
Louisiana	78	26	0 *	0	0	42	10	0	36
Maine	863	30	1	0	0	50	19	763	50
Maryland	57	1	42	0	0	12	2	0	45
Michigan	0 *	0	0	0	0	0	0 *	0	0*
Mississippi	114	47	12	0	0	39	16	0	75
Missouri	64	28	0 *	0	0	26	10	0	38
Montana	2	1	0	0	0	1	0 *	0	1
Nevada	12	6	0	0	0	4	2	0	8
New Hampshire	55	8	0	16	3	12	16	0	40
New Jersey	7	2	0	0	0	0	3	2	5
New Mexico	108	13	0	0	0	32	63	0	76
New York	6310	3105	50	224	1068	994	338	531	3717
North Carolina	7	0 *	0 *	0	0	6	1	0	1
Oregon	275	51	11	76	52	44	29	12	167
Pennsylvania	1757	334	112	6	10	355	213	727	665
Rhode Island	46	0	0	0	0	26	20	0	20
South Carolina	69	52	0	0	0	15	2	0	54
South Dakota	1	1	0 *	0	0	0	0	0	1
Texas	4	0	0	0	0	0	4	0	4
Utah	377	27	2	0	0	259	89	0	118
Virginia	423	190	113	3	19	40	58	0	364
Washington	75	6	0	0 *	0	35	31	3	37
West Virginia	127	65	1	0	0	71	10	0	56
Wisconsin	36	17	3	0	0	13	3	0	23
Wyoming	18	2	1	2	3	3	7	0 *	12
Marshall Islands	9	3	0	0	0	5	1	0	4
Puerto Rico	258	0	0	0	0	0	258	0	258
Total	13278	4976	383	415	1788	2210	1367	2139	7141

* Estimate less than $0.5 million.

Table A-4

1988 Needs Survey
Separate State Estimates for Design Year Needs

Table A-4 summarizes the States' assessment of needs to satisfy the design year (2008) population for selected wastewater treatment facilities that the states believe to be legitimate, but that either were justified with documents outside the established documentation criteria of the Survey or had no written documentation. The Separate State Estimates are optional and in addition to the EPA estimates. These needs are shown in Table A-4 by category of need.

Needs estimates presented in Table A-4 may vary slightly from those presented in Table 3 due to rounding.

1988 Needs Survey
Separate State Estimates for Design Year Needs
(Dollars in Millions)

	Total	Category of Need I	II	IIIA	IIIB	IVA	IVB	V	I,II, IIIA,IVB
Alabama	13	1	0 *	0	0	1	11	0	12
Arizona	210	154	0 *	0	0	44	12	0	166
Arkansas	312	109	43	10	7	99	44	0	206
California	2003	1728	38	12	18	120	87	0	1865
Connecticut	177	169	0	0	0	7	1	0	170
Florida	39	0	0	0	0	0	39	0	39
Georgia	14	0	0	0	0	0	14	0	14
Illinois	792	6	2	65	608	6	4	101	77
Indiana	260	4	250	0	0	5	1	0	255
Kansas	0 *	0	0	0	0 *	0	0 *	0	0 *
Kentucky	31	0 *	10	1	0	13	7	0	18
Louisiana	104	37	0 *	0	0	55	12	0	49
Maine	872	32	1	0	0	53	23	763	56
Maryland	60	1	44	0	0	13	2	0	47
Michigan	0 *	0	0	0	0	0	0 *	0	0 *
Mississippi	167	74	21	0	0	51	21	0	116
Missouri	80	35	0 *	0	0	33	12	0	47
Montana	15	9	0	0	0	3	3	0	12
Nevada	18	10	0	0	0	6	2	0	12
New Hampshire	11	0 *	0	1	0	8	2	0	3
New Jersey	7	2	0	0	0	0	3	2	5
New Mexico	111	13	0	0	0	32	66	0	79
New York	6316	3105	50	224	1068	1000	338	531	3717
North Carolina	10	1	0 *	0	0	8	1	0	2
Oregon	541	212	25	76	52	95	69	12	382
Pennsylvania	1852	373	120	6	10	396	220	727	719
Rhode Island	46	0	0	0	0	26	20	0	20
South Carolina	112	90	0	0	0	19	3	0	93
South Dakota	1	1	0 *	0	0	0	0	0	1
Texas	11	0	0	0	0	0	11	0	11
Utah	566	40	2	0	0	413	111	0	153
Virginia	424	190	113	3	19	40	59	0	365
Washington	142	11	0	0 *	0	89	38	4	49
West Virginia	139	50	1	0	0	78	10	0	61
Wisconsin	46	21	4	0	0	17	4	0	29
Wyoming	18	2	1	2	3	3	7	0 *	12
Guam	1	0	0	0	0	0	1	0	1
Marshall Islands	9	3	0	0	0	5	1	0	4
Puerto Rico	327	0	0	0	0	0	327	0	327
Total	15857	6693	725	400	1785	2738	1586	2140	9194

* Estimate less than $0.5 million.

Appendix B: Summary of 1986 Needs Survey Estimates

Current and Design Year Needs

Table B-1

1986 Needs Survey
Current Needs for Publicly Owned Wastewater Treatment Works Eligible for Federal Financial Assistance under the Clean Water Act*

Table B-I summarizes the results of EPA's 1986 Needs Survey for the current (1986) population. All values are given in millions of 1988 dollars. This table is provided as a convenience to those who wish to compare the 1986 and 1988 Survey results. Table B-I is comparable to Table A-I.

* A modification has been made to the published needs estimates in the 1986 Survey to account for an inflation adjustment.

1986 Needs Survey
Current Needs for Publicly Owned Wastewater Treatment Works Eligible for Federal Financial Assistance under the Clean Water Act
(January 1988 Dollars in Millions)

	Total	Category of Need I	II	IIIA	IIIB	IVA	IVB	V	I,II, IIIA,IVB
Alabama	476	174	47	81	16	95	63	0	365
Alaska	121	56	0	5	0	19	41	0	102
Arizona	515	281	79	1	2	33	119	0	480
Arkansas	250	136	17	25	2	34	36	0	214
California	4916	2380	18	260	502	333	380	1043	3038
Colorado	78	35	35	2	4	0	2	0	74
Connecticut	1092	185	91	24	11	243	145	393	445
Delaware	50	12	2	0	0 *	21	14	1	28
Dist. of Columbia	267	95	172	0	0	0	0	0	267
Florida	2498	858	230	48	26	911	421	4	1557
Georgia	633	176	90	44	26	59	158	80	468
Hawaii	222	89	4	0	0	91	38	0	131
Idaho	126	55	4	0	3	27	30	2	94
Illinois	2867	437	315	95	40	85	246	1649	1093
Indiana	1550	146	140	47	9	169	93	946	426
Iowa	646	376	72	52	2	37	102	5	602
Kansas	389	133	0 *	22	24	43	152	15	307
Kentucky	1196	215	59	78	8	553	260	23	612
Louisiana	845	317	21	59	34	244	170	0	567
Maine	285	110	0 *	25	7	57	66	20	201
Maryland	687	123	281	63	59	62	89	10	556
Massachusetts	3943	1514	49	41	19	576	607	1137	2211
Michigan	3168	891	56	54	41	376	674	1076	1675
Minnesota	959	333	63	20	167	26	100	250	516
Mississippi	421	165	50	64	2	63	77	0	356
Missouri	985	514	3	13	13	48	293	101	823
Montana	41	13	0 *	0 *	2	16	9	1	22
Nebraska	127	82	0	0 *	8	7	10	20	92
Nevada	102	55	27	2	3	9	6	0	90
New Hampshire	768	130	5	9	4	206	182	232	326
New Jersey	3498	1475	159	232	107	259	475	791	2341
New Mexico	60	28	0 *	0	16	8	8	0	36
New York	11954	2115	170	174	1589	1185	941	5780	3400
North Carolina	972	224	68	79	32	290	278	1	649
North Dakota	16	6	0	0	0	0	10	0	16
Ohio	3264	624	450	280	47	480	775	608	2129
Oklahoma	287	85	70	13	12	31	76	0	244
Oregon	765	166	39	42	34	256	124	104	371
Pennsylvania	1556	666	116	19	5	503	128	119	929
Rhode Island	361	49	4	0 *	0	55	46	207	99
South Carolina	471	146	33	37	0	69	186	0	402
South Dakota	62	43	3	0	0	7	7	2	53
Tennessee	923	345	77	160	18	222	92	9	674
Texas	2238	1040	321	128	59	173	517	0	2006
Utah	310	180	38	44	5	22	21	0	283
Vermont	153	48	11	2	5	19	16	52	77
Virginia	838	250	29	22	4	162	164	207	465
Washington	2184	838	16	130	80	255	303	562	1287
West Virginia	907	298	11	28	16	369	170	15	507
Wisconsin	1168	411	53	66	3	89	330	216	860
Wyoming	26	20	0	0	0	1	5	0	25
American Samoa	12	4	0	1	0	5	2	0	7
Guam	22	17	0	0 *	0	3	2	0	19
Northern Marianas	23	10	0	0	0 *	3	10	0	20
Puerto Rico	1188	354	2	37	15	356	403	21	796
Trust Territories	99	79	0	0	0 *	12	8	0	87
Virgin Islands	22	7	0	0 *	0	9	4	0	11
Total	63600	19614	3600	2633	3081	9286	9684	15702	35531

* Estimate less than $0.5 million.

Table B-2

1986 Needs Survey
Design Year (2005) Needs for Publicly Owned Wastewater Treatment Works*

Table B-2 summarizes the results of EPA's 1986 Needs Survey for the design year (2005) population. All values are given in millions of 1988 dollars. This table is provided as a convenience to those who wish to compare the 1986 and 1988 Survey results. Table B-2 is comparable to Table A-2.

Needs estimates presented in Table B-2 may vary slightly from those presented in Table 2 due to rounding.

* A modification has been made to the published needs estimates in the 1986 Survey to account for an inflation adjustment.

1986 Needs Survey
Design Year (2005) Needs for Publicly Owned Wastewater Treatment Works
(January 1988 Dollars in Millions)

	Total	Category of Need I	II	IIIA	IIIB	IVA	IVB	V	I,II, IIIA,IVB
Alabama	740	250	67	81	16	122	204	0	602
Alaska	234	103	0	5	0	19	107	0	215
Arizona	813	479	80	1	2	39	212	0	772
Arkansas	392	223	26	25	2	51	65	0	339
California	6535	3440	106	260	502	388	796	1043	4602
Colorado	122	53	49	2	4	0	14	0	118
Connecticut	1226	215	118	24	11	288	177	393	534
Delaware	71	13	2	0	0 *	26	29	1	44
Dist. of Columbia	267	95	172	0	0	0	0	0	267
Florida	5724	1769	346	48	26	2299	1232	4	3395
Georgia	1031	312	131	44	26	86	352	80	839
Hawaii	386	147	4	0	0	149	86	0	237
Idaho	237	123	12	5	3	38	54	2	194
Illinois	3133	599	358	95	40	99	293	1649	1345
Indiana	1692	188	150	47	9	239	113	946	498
Iowa	797	432	80	52	2	41	185	5	749
Kansas	639	220	1	22	24	46	311	15	554
Kentucky	1591	316	87	78	8	666	413	23	894
Louisiana	1172	465	30	59	34	322	262	0	816
Maine	341	133	0 *	25	7	80	76	20	234
Maryland	927	217	361	63	59	92	125	10	766
Massachusetts	4404	1638	73	41	19	731	765	1137	2517
Michigan	3366	968	65	54	41	438	723	1077	1810
Minnesota	1155	493	76	20	167	27	122	250	711
Mississippi	568	229	70	64	2	83	120	0	483
Missouri	1178	601	3	13	13	61	386	101	1003
Montana	51	19	0 *	0 *	2	18	11	1	30
Nebraska	146	98	0	0 *	8	8	12	20	110
Nevada	164	83	45	2	3	13	18	0	148
New Hampshire	936	166	7	9	4	260	258	232	440
New Jersey	3886	1688	210	232	107	339	519	791	2649
New Mexico	165	77	0 *	0	16	31	41	0	118
New York	13000	2211	196	174	1589	1952	1098	5780	3679
North Carolina	1531	333	112	79	32	416	558	1	1082
North Dakota	23	8	0	0	0	0	15	0	23
Ohio	3747	796	525	280	47	583	908	608	2509
Oklahoma	470	193	100	13	12	31	121	0	427
Oregon	913	226	55	42	34	288	164	104	487
Pennsylvania	1835	793	134	19	5	614	151	119	1097
Rhode Island	404	77	4	0 *	0	62	54	207	135
South Carolina	769	244	46	37	0	87	355	0	682
South Dakota	71	48	4	0	0	7	10	2	62
Tennessee	1489	479	109	160	18	296	418	9	1166
Texas	3494	1625	500	128	59	234	948	0	1201
Utah	607	406	72	44	5	31	49	0	571
Vermont	164	53	13	2	5	23	16	52	84
Virginia	1052	343	66	22	4	199	212	207	643
Washington	2622	1020	20	130	80	259	551	562	1721
West Virginia	1040	347	12	28	16	423	199	15	586
Wisconsin	1316	475	72	66	3	120	364	216	977
Wyoming	41	31	0	0 *	0	1	9	0	40
American Samoa	22	7	0	1	0	11	3	0	11
Guam	43	31	0	0 *	0	8	4	0	35
Northern Marianas	49	20	0	0	0 *	5	24	0	44
Puerto Rico	1643	598	5	37	15	454	513	21	1153
Trust Territories	125	95	0	0	0 *	17	13	0	108
Virgin Islands	39	11	0	0 *	0	9	10	0	21
Total	80598	26322	4774	2633	3081	13229	14848	15703	48577

* Estimate less than $0.5 million.

Appendix C: Summary of 1988 Needs Survey Technical Information

NOTE:

Some States did not update all of the technical data used to generate Tables C-1 through C-6.

Table C-1

1988 Needs Survey
Number of Operational Treatment Facilities and Collection Systems

Table C-1 summarizes the number of facilities in operation in 1988. This summary gives the number of treatment facilities and collection systems in each State and U.S. Territory.

Number of Operational Treatment Facilities and Collection Systems in 1988

	Treatment Facilities	Collection Systems
Alabama	246	288
Alaska	45	52
Arizona	116	129
Arkansas	295	326
California	588	788
Colorado	280	337
Connecticut	102	142
Delaware	19	36
Dist. of Columbia	1	1
Florida	264	328
Georgia	391	489
Hawaii	30	35
Idaho	156	177
Illinois	727	985
Indiana	360	401
Iowa	687	714
Kansas	569	581
Kentucky	227	277
Louisiana	328	353
Maine	115	163
Maryland	163	212
Massachusetts	116	206
Michigan	379	625
Minnesota	511	635
Mississippi	303	351
Missouri	608	662
Montana	166	170
Nebraska	449	515
Nevada	51	54
New Hampshire	84	109
New Jersey	201	502
New Mexico	103	113
New York	483	873
North Carolina	415	496
North Dakota	297	300
Ohio	691	875
Oklahoma	499	513
Oregon	204	232
Pennsylvania	690	1307
Rhode Island	20	31
South Carolina	203	236
South Dakota	274	276
Tennessee	240	264
Texas	1291	1557
Utah	96	153
Vermont	89	100
Virginia	244	325
Washington	257	322
West Virginia	177	254
Wisconsin	584	739
Wyoming	103	119
American Samoa	2	2
Micronesia	4	4
Guam	7	7
Marshall Islands	1	1
Northern Marianas	2	2
Republic of Palau	1	1
Puerto Rico	33	33
Virgin Islands	4	4
Total	15591	19782

Table C-2

1988 Needs Survey
Number of Operational Treatment Facilities and Collection Systems When All Documented Needs Are Met

Table C-2 shows the number of treatment facilities and collection systems that are planned to be in operation when all documented needs are met. A summary is provided for each State and U.S. Territory.

1988 Needs Survey
Number of Operational Treatment Facilities and Collection Systems When All Needs Are Met for Documented Facilities

	Treatment Facilities	Collection Systems
Alabama	296	370
Alaska	54	57
Arizona	132	146
Arkansas	337	389
California	653	890
Colorado	275	336
Connecticut	107	170
Delaware	22	41
Dist. of Columbia	1	1
Florida	272	400
Georgia	343	496
Hawaii	34	45
Idaho	177	205
Illinois	813	1102
Indiana	422	498
Iowa	709	749
Kansas	580	606
Kentucky	281	351
Louisiana	427	502
Maine	154	186
Maryland	210	332
Massachusetts	145	253
Michigan	438	757
Minnesota	563	696
Mississippi	297	406
Missouri	593	719
Montana	182	188
Nebraska	450	518
Nevada	60	64
New Hampshire	92	126
New Jersey	148	545
New Mexico	104	116
New York	603	1093
North Carolina	463	621
North Dakota	303	310
Ohio	778	1092
Oklahoma	497	523
Oregon	220	256
Pennsylvania	837	1589
Rhode Island	21	35
South Carolina	222	269
South Dakota	282	284
Tennessee	277	342
Texas	1567	1892
Utah	109	179
Vermont	96	110
Virginia	266	396
Washington	275	367
West Virginia	394	591
Wisconsin	631	850
Wyoming	104	120
American Samoa	2	2
Micronesia	7	7
Guam	6	7
Marshall Islands	3	3
Northern Marianas	4	4
Republic of Palau	1	1
Puerto Rico	30	34
Virgin Islands	4	4
Total	17374	23231

Table C-3

1988 Needs Survey
Number of Treatment Facilities by Flow Range

Table C-3 is a summary by flow range of all treatment facilities in operation in 1988, as well as those projected to be in operation when all documented needs are met. This table gives four flow ranges in millions of gallons per day (mgd) for 1988 and the design year 2008; the number of facilities in each range; and the cumulative total of their design flow capacities. These data are for all types of treatment facilities, regardless of their level of treatment.

1988 Needs Survey
Number of Treatment Facilities by Flow Range

Treatment Facilities In Operation In 1988

Flow Ranges (mgd)	No. of Facilities	Existing Flow (mgd)
0.00 to 0.10	5983	259
0.11 to 1.00	6589	2307
1.01 to 10.00	2427	7178
10.01 and greater	446	18992
Other*	146	0
Total	15591	28736

Treatment Facilities Projected to be In Operation When All Needs Are Met for Documented Facilities

Flow Ranges (mgd)	No. of Facilities	Design Flow Capacity (mgd)
0.00 to 0.10	5497	267
0.11 to 1.00	7681	2683
1.01 to 10.00	3376	10535
10.01 and greater	739	30805
Other*	81	0
Total	17374	44290

*Note: Flow data were unavailable for these facilities.

Table C-4

1988 Needs Survey
Operational Treatment Facility Information

Table C-4 summarizes the level of treatment for all wastewater collected in the United States in 1988. This summary provides details on the number of operational facilities, their associated flow, and the population served by each level of treatment. All flow values are given in millions of gallons per day (mgd).

1988 Needs Survey
Current Operational Treatment Facility Information

Level of Treatment	No. of Facilities	Design Capacity (mgd)	No. of People Served	Percent of U.S. Population Served
Less than Secondary	1789	5030	26484096	10.7
Secondary	8536	16087	77954544	31.4
Greater than Secondary	3412	15488	65650912	26.5
No Discharge	1854	1034	6079611	2.4
Total	15591	37639	176169163	71.0

Note: In addition, there are currently 117 raw discharge facilities serving 1,367,172 people (0.6% of U.S. population). Raw discharge facilities are considered collection, not treatment, facilities.

Table C-5

1988 Needs Survey
Operational Treatment Facility Information When All
Documented Needs Are Met

Table C-5 summarizes the level of wastewater treatment for all treatment facilities that are planned to be in operation when all documented needs are met. This summary provides estimates on the number of facilities, their associated flow, and the population served by each level of treatment. All flow values are given in millions of gallons per day (mgd).

Table C-5

1988 Needs Survey
Operational Treatment Facility Information
When All Documented Needs Are Met

Level of Treatment	No. of Facilities	Design Capacity (mgd)	No. of People Served	Percent of U.S. Population Served
Less than Secondary*	48	385	2842792	1.0
Secondary	9659	18990	108869760	38.1
Greater than Secondary	5293	23117	121504832	42.5
No Discharge	2363	1769	14210304	5.0
Other**	11	8	63657	0.0
Total	17374	44269	247491345	86.6

* These treatment facilities have applied for a waiver from the secondary treatment requirements in accordance with Section 301(h) of the Clean Water Act. All have received at least tentative approval.

** Note: Level of treatment data were unavailable for these facilities.

Table C-6

1988 Needs Survey
Summary of Wastewater Treatment and Sludge Handling Processes

Table C-6 summarizes the inventory of unit processes that was compiled during the 1988 Survey. The processes are grouped into seven categories: preliminary or primary treatment, biological treatment, physical/chemical treatment, noncentralized collection/treatment, sludge treatment, sludge disposal, and miscellaneous. The number of facilities using each unit process is provided both for the current year and when all documented needs are met. If multiple or parallel processes are used at a single facility, they are counted as one process for that facility.

1988 Needs Survey
Summary of Wastewater Treatment and Sludge Handling Processes

Treatment Processes	Number of Facilities: Current Year	Number of Facilities: When All Documented Needs Are Met
Preliminary or Primary Treatment:		
Preliminary Treatment	11691	14292
Flow Equalization	715	1121
Primary Sedimentation	4926	5575
Imhoff Tank	415	428
Other Preliminary or Primary Treatment	598	692
Biological Treatment:		
Stabilization Ponds	5165	6449
Aerated Lagoons	1575	2367
Total Containment Ponds	867	1017
Aquaculture/Wetlands/Marsh Systems	5	21
Trickling Filter	2260	2365
Rotating Biological Contactor (RBC)	448	725
Sequencing Batch Reactor	1	2
Activated Sludge	3591	4284
Activated Sludge - Extended Aeration	2082	2858
Oxidation Ditch	937	1353
Biological Nitrification	1007	2053
Biological Denitrification	49	85
Biological Phosphorus Removal	28	37
Other Biological Treatment	39	65
Land Treatment System	985	1445
Physical/Chemical Treatment:		
Microstrainer	151	197
Filtration	1921	3850
Activated Carbon	85	111
Chemical Addition	1107	1563
Post Aeration	1109	1747
Other Physical/Chemical Treatment	2330	2962
Dechlorination	345	1195
Disinfection	8864	12032
Noncentralized Collection/Treatment:		
Septic Tank	218	379
Leach Field	35	85
Mound System	3	40
Sand Filter (Noncentralized)	27	71
Intermittent Recirculating Sand Filtration	5	11
Septic Tank Effluent Pumping (S.T.E.P.)	26	77
Small Diameter Sewer	35	117
Pressure Sewer	17	48
Vacuum Sewer	4	19
Other Noncentralized Collection/Treatment	9	32

Table C-6
(Continued)

1988 Needs Survey
Summary of Wastewater Treatment and Sludge Handling Processes

Treatment Processes	Number of Facilities: Current Year	Number of Facilities: When All Documented Needs Are Met
Sludge Treatment:		
Aerobic Digestion	3710	4800
Anaerobic Digestion	3628	4072
Composting	77	126
Heat Treatment	143	163
Air Drying	6037	7241
Sludge Lagoons	688	822
Mechanical Dewatering	1718	2123
Thickening	1246	1556
Chemical Addition	139	189
Heat/Gas Utilization	246	288
Other Sludge Treatment	574	774
Sludge Disposal:*		
Incineration	341	392
Landfill/Trenching	6881	8208
Land Spreading	2776	3147
Ocean Disposal**	33	37
Distribution and/or Marketing of Sludge	47	62
Other Sludge Diposal	177	208
Miscellaneous:		
Outfall Diffuser	104	140
Package Plant	1450	1937
Other	14544	17604

* Information presented for "Sludge Disposal" does not reflect changes in sludge use and disposal practices that might result from EPA's proposed technical sewage sludge regulations signed by the Administrator on January 18, 1989.

** The estimated number of facilities that will dispose of sludge in marine waters, when all documented needs are met, does not reflect the recently enacted Ocean Dumping Ban Act of 1988 (PL 100-688) which prohibits ocean dumping after 1991.

Appendix D: Summary of 1988 Needs Survey Facility Documentation

Table D-1

1988 Needs Survey
List of Acceptable Documentation Types

Table D-1 lists the 17 acceptable criteria for documenting a problem or a cost estimate in the 1988 Needs Survey. The same criteria were used for the 1986 Survey.

1988 Needs Survey
List of Acceptable Documentation Types

Documentation Type	Use Justification of Problem	Use Justification of Cost
1. Capital Improvement Plan A capital improvement plan must adequately address why the project is needed and provide project-specific costs.	Yes	Yes
2. Infiltration/Inflow (I/I) Analysis	Yes	Yes
3. Sewer System Evaluation Survey (SSES)	Yes	Yes
4. Final Engineer Estimate The final engineer's report is typically submitted as a result of a detailed facility design.	Yes	Yes
5. Cost of Previous Comparable Construction This document may be used to justify costs if stringent guidelines are followed and the costs are project specific.	No	Yes
6. Facilities Plan Excerpts from a facilities plan are acceptable forms of documentation to justify a need and to update cost estimates.	Yes	Yes
7. Plan of Study This documentation type must be an official project description. A plan of study precedes a facilities plan.	Yes	No
8. State Priority List A State's project priority list is acceptable as adequate problem documentation if the list was accepted by EPA. The 1-year fundable plus 4-year planning portion of the FY 1987 or 1988 lists may be used if accepted by the appropriate EPA Regional Office.	Yes	No
9. State-Approved Area-Wide or Regional Basin Plan An area-wide or regional basin plan (per Section 208 or 303 of the CWA) is an acceptable document to justify that a need exists if specific project	Yes	Yes

Table D-1
(Continued)
1988 Needs Survey
List of Acceptable Documentation Types

Documentation Type	Use Justification of Problem	Use Justification of Cost
descriptions are cited and the plan is State approved. The problem areas should be specifically identified.		
10. Grant Application Form (Step 3 or 4)	Yes	Yes
11. Municipal Compliance Plan This document may be used to justify a need and to update costs if the costs are project specific.	Yes	Yes
12. Diagnostic Evaluation Results of Municipal Wastewater Treatment Plants The results of a diagnostic evaluation of a treatment plant may be used if the results indicate that construction is needed to achieve compliance.	Yes	No
13. Administrative Order/Court Order/Consent Decree These documents may be used to justify that a need exists if they specifically describe an existing or historic problem demonstrating a need to construct.	Yes	No
14. Sanitary Survey A sanitary survey by a health agency can be used to justify a need if the document specifically identifies any existing or historic problem of high failure rates.	Yes	No
15. State-Approved Local/County Comprehensive Water and Sewer Plan This document may be used to justify a need and to update costs if the document contains descriptions that are project specific and cost specific.	Yes	No
16. State Certification of Excessive Flow A document that is preliminary to an I/I report may be used to justify that a need exists for Category III.	Yes	No
17. State-Approved Municipal Wasteload Allocation Plan This document may be used to justify a need and to update costs if the document contains descriptions that are project specific and cost specific.	Yes	No

Table D-2

1988 Needs Survey
Summary of Facility Cost Documentation

Table D-2 provides a breakout of the documentation types used to develop the design year (2008) cost estimates.

1988 Needs Survey
Summary of Facility Cost Documentation
(by Percent of Design Year Needs Based on Planning and Cost Curves)

Documentation Type	Percent of Total Needs Based on Planning	Cost Curves	Total
Capital Improvement Plan	6.4	0.2	6.6
Inflow/Infiltration Analysis	1.4	0.0	1.4
Sewer System Evaluation Survey	1.8	0.6	2.4
Final Engineer Estimate	2.1	0.1	2.2
Cost of Previous Comparable Construction	0.2	0.0	0.2
Facilities Plan	69.9	1.8	71.7
Plan of Study	2.5	1.3	3.8
State Priority List	4.0	2.1	6.1
Area-Wide or Regional Basin Plan	0.2	0.5	0.7
Grant Application	0.7	0.0	0.7
Municipal Compliance Plan	0.7	0.1	0.8
Diagnostic Evaluation	0.1	0.2	0.3
Administrative Order/Court Order/Consent Decree	0.1	0.7	0.8
Sanitary Survey	0.1	1.3	1.4
Comprehensive Water and Sewer Plan	0.1	0.4	0.5
State Certification of Excessive Flow	0.0	0.0	0.0
Municipal Wasteload Allocation Plan	0.2	0.2	0.4
Total	90.5	9.5	100.0

Question. Could you also provide me with a summary of planning funds received in Nebraska in each of the last five fiscal years?

Answer. Nebraska's planning grants for the last 5 years are contained in the following table:

NEBRASKA'S PLANNING FUNDS FY 85–89

Fiscal year	Reserves [1]	Grant awards
1985	$125,130	$125,130 from FY 1984 reserve
1986	100,000	125,130 from FY 1985 reserve
1987	125,130	225,000 from FY 86 and FY 1987 reserve
1988	117,480	117,500 from FY 88 reserve
1989	[2] 200,000	

[1] The Section 205(j)(1) water quality planning reserve is based on one percent of the state's Title II construction grant allotment, with a "floor" of $100,000. The Section 604(b) reserve, which became effective in fiscal year 1989, is similarly based on one percent of the state's Title VI state revolving fund allotment, with a "floor" of $100,000.

[2] $100,000 Section 205(j)(1) plus $100,000 under section 604(b).

WETLANDS

Question. I was pleased to see your reference to the need to follow up on recommendations for the preservation of wetlands and your comment that EPA must be capable of addressing long-term environmental concerns before they become problems.

We are currently working with the Corps of Engineers on restoration of wetlands along the Missouri River.

Do you have a means of working with the Corps early in planning and decision-making so that adequate planning for preservation and restoration can be made from the beginning of a project?

Answer. Depending on the project-specific circumstances, EPA has several opportunities to coordinate with the Corps early in the planning process to assure that appropriate wetlands mitigation is incorporated into project decision-making. For projects which require the development of an environmental impact statement (EIS), EPA coordinates with the Corps at each step of the National Environmental Policy Act (NEPA) process. Very early in that process, for example, scoping meetings are conducted to identify the major issues, including mitigation, and alternatives for effectively resolving these issues. These scoping sessions typically occur years before a final EIS is completed. EPA also plays a major role in the development and approval of a draft EIS which is the initial document addressing each of the NEPA related requirements including mitigation plans.

For major projects that do not require an EIS but where authorization under Section 404 is necessary, EPA regularly coordinates with the Corps and applicant early in the process to identify any significant issues. These pre-application discussions generally focus on the evaluation of potentially available alternatives to the proposed project that do not involve the loss of wetlands. Once this alternatives analysis is completed, EPA and the Corps work with the permit applicant to identify appropriate compensatory mitigation to offset remaining unavoidable wetlands impacts. For smaller projects requiring a Section 404 permit, formal pre-application meetings may not be held. However, for every individual Section 404 permit application received by the Corps, a public notice is prepared describing the project and sent to EPA for review and comment. EPA has the opportunity at this stage of the review process to provide comments to the Corps, including recommendations for appropriate mitigation.

FIFRA SECTION 18

Question. On March 10, 1989 I wrote to Asst. Administrator Victor Kimm to ask for a timely decision with regard to the State of Nebraska's request for permission under Sec. 18 of FIFRA to use the pesticide "Beacon" to control shattercane in corn fields.

I was disappointed to receive Mr. Kimm's response of April 4, 1989, in which he replied that the State of Nebraska's request could not be granted because the data base for Beacon has not been fully evaluated.

Is it not correct that the purpose of Sec. 18 is to provide for emergency approval of a pesticide even though the data base for the chemical has not been fully evaluated?

If EPA, for whatever reason, could not review the State of Nebraska's request in a timely fashion, why didn't Mr. Kimm simply say so?

Answer. You are partially correct in your statement that the purpose of section 18 of FIFRA is to provide for emergency approval of a pesticide even though the data base for the chemical has not been fully evaluated. Section 18 allows the Administrator to authorize an unregistered pesticide use when an emergency condition exists and the benefits of the use outweigh the potential risks.

The chronic data base for Beacon is currently "in-house," but has not been fully evaluated in order to authorize a section 18. Due to toxicological concerns which have been raised with respect to oncogenicity of Beacon, the Agency believes it must await a full evaluation of the data base in this instance.

It should also be pointed out that it has been Agency policy to give close scrutiny to section 18 requests which involve the use of an unregistered pesticide, that is, a pesticide which has not been through the Agency's evaluation process and is currently not registered for any use in the United States. Beacon is an unregistered pesticide.

The main reason for this policy is that the Agency has not had a chance to review the underlying chronic toxicology data base which is required to evaluate any pesticide to be used on a food or feed crop. The vast majority of section 18 requests involve an unregistered use of a registered pesticide and, as such, the chronic toxicology data base has previously been reviewed. The Agency will be reasonable in allowing the use of unregistered pesticides if a real emergency exists for which there are no effective alternatives and the data base does not raise potential health concern issues.

Mr. Kimm's letter of April 4, 1989, pointed out our toxicological concerns with respect to the use of Beacon and the need to await a full evaluation of the data base. We do believe a timely decision was made with respect to Nebraska's request, since the Nebraska Department of Agriculture was notified on February 15, of the Agency's decision not to allow the use of Beacon.

Questions Submitted by Senator Garn

DESERT ECOLOGY RESEARCH

Question. Mr. Reilly, your statement highlights the need to undertake a more vigorous program of long-term ecological research. As you may know, I urged the agency to undertake such a research program on desert ecology in the Great Basin area. What is the status of this program? What do you feel this program may provide with usable research results regarding the impact of global climate change?

Answer. A cooperative agreement with Utah State University entitled "Great Basin Regional Ecology: Major Vegetation Changes and Environmental Implications" is being funded by EPA at a level of $299,955 in fiscal year 1989.

The Great Basin Desert, occurring mostly in Utah, Nevada, Idaho, and Oregon, has unique hydrologic and vegetation characteristics resulting from the arid climate and a system of watersheds and internal drainage basins that maintain the water within the basin itself. The basin vegetation ecology is comparatively fragile and at risk of damage from growing human population pressures. There are substantial and continuing changes in vegetation, notably shrub die-off and intrusion of introduced annual grasses that overwhelm the relatively stable dominant plant ecology. Because exact causes for these events are obscure, this continuing effort seeks to assemble existing information, to review historical records, and to gather other information to assess the problems and seek cause-effect relationships.

The research results from this project will contribute to characterizing a sensitive climatic, biotic, and hydrologic region of the Untied States, and contribute to understanding factors controlling the responses of hydrologic and ecologic systems to change—two goals of EPA's Global Climate Change Research Program.

ACID RAIN RESEARCH AND ACTIVITIES

Question. Your budget request for acid rain research and activities reflects a decrease of $15 million from 1989. Is this cut solely accounted for by the completion of the National Acid Precipitation Assessment Program?

Answer. The decrease mainly reflects completed research which will be used in the 1990 integrated assessment. Such research includes aquatic and terrestrial ef-

fects projects, emission project models, and development of the regional acidic deposition model. In addition to research for the 1990 assessment, the request includes funds for activities that will continue after termination of NAPAP. Such activities include monitoring, demonstration of the model and other followup activities.

Question. Can you give us an early indication of what the NAPAP report will tell us?

Answer. Not specifically. The first drafts of the first section of the NAPAP report are due at the end of May, 1989. At that time drafts will be distributed to peer reviewers and the NAPAP agencies. We will evaluate the drafts and request changes. This iterative process will be completed in the fall of 1989 when papers are published. These papers will be reviewed at an International Workshop in February of 1990. Thus, we do not know what these papers will say.

Question. Considering the major increase in Department of Energy funds requested for acid rain abatement, can we afford to reduce acid rain research at this time?

Answer. As explained above, the decrease mainly reflects completion of research which will be used in the 1990 integrated assessment. Funding is still needed however, for important activities such as continued monitoring and model maintenance.

PESTICIDES

Question. After the pesticide program grew by 50 percent from 1988 to 1989, you are now seeking an overall program reduction of 11 percent. While most pesticide programs are slated to receive increases, you have asked for a major reduction in the generic chemical review program. Does this reduction signal that we are near completing the process of transporting, storing, and disposing of chemicals which are no longer legal?

Answer. You are correct that the major change in the generic chemical review program results from changes in disposal funding. The fiscal year 1989 level is $46.35 million, and this will be used primarily for disposal of dinoseb. In December 1988 the Agency awarded contracts for disposal of dinoseb at a total maximum cost of $34 million, and most of this cost will be incurred in fiscal year 1989. Demonstration burns on dinoseb are planned for this spring. Full scale dinoseb disposal will begin by the summer, based on successful completion of the demonstration burns.

The $15 million level requested for disposal in fiscal year 1990 will be used primarily for storage of 2,4,5-T/Silvex stocks, until one or more facilities are licensed to incinerate these dioxin containing stocks, and a disposal contract award can be made. The total costs for 2,4,5-T/Silvex disposal are not yet known.

Disposal of ethylene dibromide (EDB) was essentially completed in 1988, and all remaining stocks will be disposed of in fiscal year 1989.

Question. There has been a lot of concern lately about the role of pesticides in the production of food. Can you give me the EPA position on the role of pesticides in farming and explain what actions, if any, you plan to take to reassure the American public of the safety of its food supply?

Answer. In carrying out its mandates under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1988, and the relevant provisions of the Federal Food, Drug, and Cosmetic Act, EPA implements the basic goals of these statutes to allow only those pesticide uses that (1) do not have "unreasonable adverse effects", and (2) have benefits outweighing whatever risks might exist. Use of pesticides in farming must be consistent with these two primary goals. Based on these mandates, and in order to reassure the public of the safety of its food supply, the Agency provides an active and extensive public information program. Included in this public information program are the following key elements:

Fact Sheets.—Fact Sheets are the principal vehicle for communicating information about specific chemicals in pesticides to the non-technical public. Fact Sheets contain EPA's findings and regulatory decisions regarding specific pesticide chemicals.

Mailing List and Communications Strategies.—As part of the phased reregistration process mandated by Public Law 100-532, the FIFRA amendments of 1988, EPA is developing a computerized mailing list of groups having an interest in pesticide regulation including users, environmental and public interest groups, and academia. At an appropriate point in the decision making process, EPA will develop a Communications Strategy which will summarize the status of the decision, and identify interested groups using information from the mailing list. EPA will then communicate directly with the identified groups.

Public Information on Chances in Product Availability, Uses, Warnings, and Restrictions.—Current agency documents assessing a pesticide include information about permitted uses, warnings of long term effects, and restrictions on use. These

documents are updated to incorporate changes in uses, and made available to the public.

National Pesticide Information Retrieval System (NPIRS).—Information concerning individual pesticide products is available on a nationwide computer network, to which many State and user groups subscribe.

National Pesticide Telecommunications Network.—EPA, in cooperation with the Texas Tech University, provides a toll free telephone service to make available information about pesticides to all callers, around the clock, every day of the year. It provides information using NPIRS, as well as other computerized data bases. The number is 1-800-858-PEST.

Topic Specific Reports.—EPA develops several topic specific reports such as the Restricted Use Report, updated quarterly,which lists all products classified for restricted use, and a Hazard Warning Report, which lists chemicals for which chronic effects warnings are required. These reports are available to the public.

Federal Register.—EPA issues numerous documents in the Federal Register, which is widely available. Typically, EPA will prepare a communications strategy in connection with publication of Federal Register documents. As stated above, the communications strategy will summarize the substance of the document, and identify groups who will be notified of the publication of the Federal Register document in which they have an interest.

CONSTRUCTION GRANTS

Question. EPA is currently in the process of phasing out its construction grants program. Have the states shown a willingness to take over these activities? What is the status of current state revolving funds—are these new grants actually leveraging more funding as intended?

Answer. As a part of the construction grants program phase out, EPA has requested each state to prepare a detailed phaseout strategy. This strategy will identify the length of time necessary to complete and closeout all grant projects, the resources needed to administer the phaseout, the extent to which 205(g) funds will cover the need, and the state's plan to carry out the program if there are shortfalls. We expect the strategies to be submitted and approved by July 1, 1989.

To date, 20 states have been awarded a capitalization grant for a State Revolving Fund (SRF), and we anticipate a total of 40 states will have received grants by the end of 1989. The remaining states are anticipated to receive grants next year. Although states are required to enact SRF legislation in order to be awarded a grant, at least 12 states have not enacted legislation—some with the expectation of receiving a grant yet this year.

Three of the 20 states that have received grant awards have leveraged the Fund, and two have provided a substantial over match. A number of states have indicated that they are starting the Fund with simple loans while studies are conducted to identify how leveraging approaches might be used to meet their needs.

MANAGEMENT OF PROGRAM

Question. The President has called for better management of the Superfund program, while proposing an increase in the Superfund budget of 11 percent. Are activities moving forward at a sufficient pace to warrant this increase?

Answer. Superfund activities are progressing at a rate that is consistent with current and future funding levels. At the beginning of fiscal year 1989, we had planned to obligate the entire construction budget in order to initiate 23 Fund-financed remedial actions. The Agency recently performed a mid-year assessment of Superfund which indicated that we will meet or exceed this target and use the entire remedial action budget.

The Agency plans to channel the majority of its future resource increases into funding construction activities. For fiscal year 1990, the President's Budget shows an increase of $192 million for the Response program. We plan to apply 95 percent of this increase, $181 million, to the construction budget.

Activities in the Superfund Enforcement program are moving forward at an increased pace. Fiscal year 1988 was an exceptional year in many areas of the program. The trend will continue in fiscal year 1989 in all areas of Superfund enforcement.

Question. Can the management changes proposed by the President actually be achieved (such as collecting triple damages from polluters unwilling to clean up their waste)?

Answer. The Superfund Amendments and Reauthorization Act of 1986 (SARA) provided the Agency with additional enforcement inducements. These enticements

provide strong incentives for Potentially Responsible Parties (PRPs) to settle with the Agency. For example, each PRP can be held responsible for the total cost of site remediation despite their relative contribution of pollutants and contaminants. This creates an impetus for PRPs to coalesce and agree to conduct the work as a group. Another agent is mixed funding. Under mixed funding, EPA and PRPs share in the cost of remediation and the Agency pursues expenses from non-settlers. An additional mechanism is provided through de minimus settlements. With de minimus settlements, minor PRPs can resolve their liability with EPA and their costs are then applied to site remediation.

SARA also provides various vehicles to be used against recalcitrant parties. Under Section 106, the Agency is given the authority to initiate unilateral enforcement actions to compel PRPs to manage response actions. PRPs can either agree to conduct the work or the Agency will carry out the response action and will seek to recover costs up to three times the amount of the action.

All of these devices are being used by the Agency and are major contributors to increased PRP participation in the program. In particular, as of May 1, 1989, the Agency has referred or filed 13 cases seeking treble damages. Eight of these cases have been referred or filed since the enactment of SARA.

NATURE OF ISSUES

Question. Are the problems being encountered by the program mostly of scientific or legal nature?

Answer. The issues surrounding the Superfund program are technically and legally complex. The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 requires the protection of public health and the environment in an expeditious manner while also encouraging remediation of Superfund sites by Potentially Responsible Parties.

From a technical perspective, the Agency is trying to develop, test, and select treatment remedies that will provide more permanent solutions to remediating Superfund sites. This is not easy since each site is different and remedial actions must be adjusted to meet site specific conditions. Technical problems stem from a lack of available data on the effectiveness of alternative technologies and the related problems associated with major risk assessment decisions. The Agency continues to pursue innovative technologies through the SITE program.

In the enforcement program, the Agency must resolve legal issues that arise from applying the law to new provisions of the statute. Coupled with this difficulty are the complexities associated with multiple party negotiations and the need to have appropriate management systems in place to buttress EPA's legal position.

SITE CLEAN UP

Question. How many sites have we "cleaned up" thus far, and how may additional sites remain?

Answer. A total of 48 Superfund sites have completed the construction phase of the "clean up" process. Of those sites, 24 have been deleted from the National Priorities List (as of March 1, 1989). In total, construction has been started at 204 sites.

EXPLORATORY RESEARCH CORE PROGRAM

Question. One of the biggest increases in operating programs is sought for your interdisciplinary programs. Just a few questions about these changes. You have asked for $10 million in additional funds for the Exploratory Research Core Program, which is your long term research effort. You plan to award 125 new grants this year, and continue support of 55 existing grants and 8 research centers. Can you give a status report on these programs and describe why they warrant such a significant increase?

Answer. The additional $10 million request for the Exploratory Research Program will all go to the grants program. EPA needs a larger research grant program because: (a) new environmental problems (e. g. stratospheric ozone, protection of habitat, global climate change, etc.) dictate that EPA maintain a long-term research capability; (b) fundamental knowledge is needed to complement the large Federal applied research program on-going; and (c) it will support graduate students who will later on become environmental researchers and managers. The grant program must provide sufficient and stable funding so that academic researchers can advance environmental research. The current status of the Research Grants program is to fund 55 grants annually which cover five areas of science: Chemistry and Physics—Air;

Chemistry and Physics -Water; Environmental Biology; Environmental Engineering; and Environmental Health.

The status of the Research Centers Program involves conducting a major review of the total program to design the post 1990 Centers program. FY 1990 is the last year of our commitment to seven of the eight research centers. Funding for the eighth ends in fiscal year 1991.

TOXIC SUBSTANCES

Question. Your budget request includes a provision to nearly eliminate Federal support for asbestos removal and abatement programs ($50 million in 1989). Are you confident that state and local authorities will be able to pick up this activity?

Answer. Since 1985, EPA has provided more than $200 million in loans and grants, under the Asbestos School Hazard Abatement Act (ASHAA), to address asbestos hazards in needy schools across the nation. Once work funded under the 1989 award cycle is completed, this program will have reduced more than 17 million exposure hours each week to school students, teachers and workers.

EPA has not requested funding for ASHAA in 1990 since previous Federal funding has already greatly reduced the problem of serious asbestos exposure in schools, and many of the remaining abatement projects are being funded at the local level. The Agency's approach with respect to asbestos abatement in schools is to emphasize strong technical assistance efforts and active enforcement of existing EPA rules. This approach recognizes the practical reality that decisions on asbestos are best made and funded at the local level, where actual site conditions can be evaluated on a case-by-case basis.

Additionally, the Asbestos Hazard Emergency Response Act (AHERA) schools rule has established a program founded on in-place management of asbestos rather than asbestos removal. Only under very special circumstances do the regulations require asbestos removal in a school. Schools, however, are not prohibited from removing asbestos from their buildings if they use accredited professionals and state-of-the-art practices.

EPA recommends that schools first carefully evaluate the actual need to remove existing asbestos in accordance with the requirements of the AHERA schools rule and, if abatement is necessary, EPA would further suggest that the most appropriate funding sources are to be found at the State and local levels.

States and localities have continued to increase their capabilities for asbestos management. For example, more than 40 States now have certification programs for asbestos abatement contractors and many jurisdictions, such as Rhode Island, Virginia and New York City, have asbestos management programs more stringent that Federal requirements.

To reinforce this trend, EPA will make enhancement of State asbestos activity to be one of its highest priorities in 1990. We envision a new $1 million State grant program next year to help States establish responsible programs. The new grant program follows a cooperative agreement we have established with the National Conference of State Legislatures to provide assistance to States, track the progress of State programs and develop model materials for program establishment and implementation.

Question. Does the new asbestos-in-buildings program ($5 million) basically constitute an education/information effort? Do you plan for it to continue after 1990?

Answer. The asbestos-in-buildings program consolidates the Agency's work in schools over the past 5 years with a new effort, outlined in the EPA's Report to Congress on Asbestos-Containing Materials in Public Buildings (February 1988), to more squarely address the asbestos issue in public and commercial buildings.

Clearly, public education and information will continue to be an important part of the Agency's efforts. However, EPA will continue its technical assistance and outreach program, asbestos management and abatement guidance activities, as well as its role in advancing the state-of-the-art in asbestos control techniques.

EPA has implemented a program to assess and improve the nation's ability to deal with asbestos in public and commerical buildings:

1) *Enhance the Nation's Technical Capability* to deal with asbestos in buildings by expanding the universe of trained and accredited asbestos inspectors and abatement professionals, thereby ensuring that the asbestos in public and commercial buildings can be handled as safely as it is in schools.

2) *Focus Special Attention on Thermal System Insulation Asbestos* in these buildings, which is more prevalent, is in worse condition, and is generally easier to control than other asbestos containing materials.

3) *Improve the Enforcement of Relations* designed to assure that asbestos which is being removed is done so in a manner which is safe for both the building occupants and workers.

4) *Objectively Assess the Effectiveness of the AHERA School Rule* and other current activities taken by the States, localities,and in the private sector in order to improve the nation's ability to deal effectively with the problem of asbestos in buildings.

5) *Study the Levels of Exposure to Asbestos in Public and Commercial Buildings* to develop improved data on exposure to asbestos in these buildings. This program continues the jointly sponsored research program started in fiscal year 1989 with the Health Effects Institute.

We expect, as outlined in the 1988 Report, to implement our recommendations to the Congress over the next few years.

Question. What role does EPA play in the removal of asbestos from Federal buildings?

Answer. EPA facilitates the establishment of responsible management and abatement programs in Federal buildings.

In particular, the Agency has been working closely with the General Services Administration (GSA), the Federal Government's leading building owner and manager, to help GSA establish appropriate policies and procedures. GSA has implemented a program of EPA-sponsored training and in-place asbestos management, along with removal when necessary. Special guidance materials are now being developed for GSA managers who must oversee asbestos containing buildings.

Many other Federal agencies and departments, including the Veterans Administration and the Department of the Interior, have worked with EPA to establish their asbestos management programs.

In addition, Federal buildings are subject to the same required notification and work practice requirements as other buildings—the asbestos NESHAP—when asbestos is being removed from these facilities. EPA's asbestos abatement projects standard offers protections to public sector abatement workers, not already covered by standards promulgated by the Occupational Safety and Health Administration (OSHA) or State programs, who may be exposed to certain levels of asbestos fibers.

Incidentally, the Agency does not recommend removal of asbestos-containing material in buildings unless required by the asbestos National Emission Standard for Hazardous Air Pollutants (NESHAP), promulgated under the Clean Air Act, or unless the material is sufficiently damaged to warrant this response. Further, removals should be conducted only by qualified, experienced and trained personnel.

GLOBAL CLIMATE CHANGE

Question. Yesterday I understand there was discussion in this hearing on whether EPA should be the "lead" Federal Agency in the Nation's global change effort.

According to the Committee on Earth Sciences report, however, EPA has only a $35 million research request on this issue (less than a fifth of the Federal total). Do you feel this is adequate to address this major issue?

Answer. The potential impact of global climate change could pose the largest and most significant long-term man-made environmental problem of the future. The resolution of such a complex problem requires comprehensive Federal planning and a coordinated Federal effort. The Committee on Earth Sciences was established by the Federal Coordinating Council for Science, Engineering, and Technology (FCCSET) to fulfill that need. Its stated purpose is to address significant scientific issues that cross agency boundaries for study of the Earth as a global system. All Federal agency's programs and budgets have been carefully coordinated for fiscal year 1989 and fiscal year 1990. Accordingly, we believe that the proposed fiscal year 1990 increase in our global climate program is adequate and that all future budgetary efforts must be coordinated within the established CES framework. The question of the Federal "lead" has not been resolved, but will be addressed by an Executive Order.

Question. Incidentally, among those Federal agencies involved in global change research, the three largest—NSF, NASA, and EPA fall within our subcommittee jurisdiction with over half the Federal-wide total. So while I will reserve judgment on the "lead" status of EPA, I can certainly make an argument for the "lead" role of this subcommittee.

Specifically what areas does EPA focus or concentrate in relation to the research programs of other Federal agencies involved in global climate change?

Answer. Individual agency efforts within the Federal Global Change Research Program reflect their particular mission, and build upon their respective scientific and technical strengths. EPA research is focused on ecological systems and human

interactions. EPA conducts research to assess, evaluate and predict the ecological, environmental, and human-health consequences of global change, including the interaction of plant and animal communities and ecosystems with the climate system. Additional areas include assessment and development of techniques to mitigate and adapt to climate change, development of emission factors, inventories and models for radiatively important trace gases, and evaluation of the relationship between global atmospheric change and regional air and water quality. These research efforts reflect EPA's regulatory mission to assess and evaluate the ecological, environmental, and health-related consequences of global change.

RESEARCH NEEDS

Question. As you may know, I am a proponent of a more vigorous Federal research and development effort as a means of assuring the Nation's competitive and economic future. But I see these investments as also critical in meeting urgent needs through more effective and efficient technologies. For example, your agency is confronting a wide array of environmental problems from global climate issues to the particulars of health hazards of individual pesticides. Furthermore, already mandated clean-up needs from asbestos and radon to Superfund sites threaten to overwhelm the resources of any Federal program that we can hope to fund.

How critical do you feel your research needs are—and are you satisfied with its emphasis in your pending fiscal year 1990 budget request? (16 percent increase)

Answer. The fiscal year 1990 budget request will allow the Agency to meet its short-term research needs and address long term research issues. The long term research program will be strengthened with an increase of $28 million dollars, this includes an increase of $10 million for exploratory research grants to the scientific community and an increase of $18 million for an ecological research program. In the area of global climate change research, an additional 16 workyears and $10 million over fiscal year 1989, will significantly enhance research on the regional effects of global climate change including impacts on key ecosystems. To address long term research issues like global climate change and stratospheric ozone depletion requires EPA maintaining leadership in environmental science in these areas in the 1990s and it will allow us to begin anticipating future environmental problems.

QUESTIONS SUBMITTED BY SENATOR GRASSLEY

HAZARDOUS WASTE CLEANUP

Question. In a time of tight budget priorities, how does the EPA plan to assure that the quality of hazardous waste cleanup does not get compromised in an effort to avoid having to take companies to court?

Answer. When the Agency negotiates an agreement with Potentially Responsible Parties (PRP) for site remediation, several steps are taken to both guarantee that the quality of the proposed remedy is up to statutory standards and that the PRP's implementation of the remedy is carried out properly. First, the content of the remedy is subject to careful technical review starting with the Agency's Record of Decision process. The remedy is also reviewed by the State and the public, and the Agency must respond to all comments. Second, the remedy is carefully designed to ensure enforceability and is codified in a court-enforceable consent decree. Several mechanisms are built into the decree to provide incentives for responsible parties to perform well. These include provision for Federal oversight (at the PRP's expense), stipulated penalties, and strict conditions governing release from liability.

WETLANDS

Question. What do you see as the EPA's role in the implementation of the wetland's protection policy?

Answer. EPA's Wetlands Action Plan (January 1989) provides a good starting point to describe the types of actions EPA is best suited to take to implement the recommendations of the National Wetlands Policy Forum. The actions fall within the following seven categories: Wetlands planning initiative; mechanisms to increase state/tribal/local roles in wetlands protection; section 404 regulatory "fixes"; enforcement, 404 guidelines and jurisdiction/delineation; mitigation policy; information/education; cumulative impacts; and wetlands restoration.

EPA shares direct responsibility for the Clean Water Act Section 404 program with the U.S. Army Corps of Engineers. EPA's work to improve the effectiveness and efficiency of this program includes policy development and clarification, en-

forcement, permit reviews, jurisdictional calls, advance identification of particularly vulnerable or valuable wetland resources and research.

Clearly, the task of wetlands protection cannot be accomplished by EPA alone. EPA is undertaking a variety of other actions to support and encourage efforts by other agencies and by the private sector as well. EPA is developing guidance, technical support mechanisms and limited financial assistance to support the nonregulatory and regulatory wetlands protection efforts of states. EPA is working to ensure that its own environmental programs (such as the traditional water quality program and Superfund) factor wetlands protection into these decisions. EPA is also working with other Federal agencies to identify projects and actions to support wetlands protection and restoration goals. Finally, EPA is developing educational information to increase awareness of wetland functions and programs available for protection.

Questions Submitted by Senator Nickles

UNDERGROUND PETROLEUM STORAGE TANKS

Question. What is EPA's current assessment of the pollution liability insurance market for petroleum underground storage tanks? Is there reason to anticipate this market will improve in the near future? Why or why not?

Answer. Currently, there are only two primary providers of insurance: Federated Mutual, which provides insurance for underground storage tanks as part of a general liability policy, and PETROMARK, a risk retention group intended primarily for petroleum marketers (e.g., medium to large oil jobbers and distributors). PETROMARK has recently announced its intention to expand its market to include large non-marketers (e.g., truck fleets). EPIC, another risk retention group, is beginning to offer some coverage for underground storage tanks.

A number of other insurers (both established companies and newer and smaller companies) have expressed strong interest in coming into the market; some draft policies have been submitted to State insurance commissions for approval.

However, all of the existing and planned insurance programs require a minimum number of facilities or premiums and exclude coverage for older (e.g., 10 or 15-year old) tanks. Therefore, smaller owners (both marketers and non-marketers) and those with older tanks face the greatest difficulty in obtaining insurance coverage.

Insurance companies have been reluctant to enter the market for both underwriting (understanding the risk and being able to price their policies properly) and financial reasons. Until such time as the risks from underground storage tanks are better known and understood by the insurance companies, not much will change.

EPA's assessment for the long term is more optimistic for several reasons. First, EPA's leak detection requirements phase in this December. As leaking tanks are found and repaired or replaced, the tank population will become safer, lowering the risks from these tanks. Second, the recent development and implementation of a number of State financial assurance programs, will offer a significant measure of protection to the owners and operators and as well as their communities, even though most of these funds do not currently fully satisfy Federal requirements. Some States have even gone further by proposing low interest loans to their owners for upgrading or replacing their old tanks.

Question. Several States have created State clean-up funds as a means of providing financial responsibility for tank owners as well as for expediting clean up of leaks within the State. Will these funds meet EPA's requirements for financial responsibility? Does EPA generally believe they are adequately capitalized to meet the clean-up needs within the respective states?

Answer. EPA has reviewed many of the current and proposed funds that States are establishing to address underground storage tank (UST) corrective actions. While these funds provide monies for responding to UST releases, which is highly desirable, currently very few could be used by tank owners and operators to satisfy the Federal financial responsibility requirements in full. For example, some of the funds do not include coverage for third party liability. Others contain provisions for deductibles to be paid by tank owners and operators, resulting in the need for owners and operators to demonstrate assurance for the amounts that the State fund does not cover. EPA has advised States of revisions in State statutory language that would enable them to use their cleanup funds to assist owners and operators to satisfy the Federal financial responsibility requirements.

State funds that EPA has reviewed thus far appear to be adequately capitalized. Although the total cost of taking corrective actions may be greater than current fund levels within each State, not all leaks will be discovered or remediated on any

predetermined schedule. Thus, the need for funds will fluctuate over time. To account for this uncertainty, EPA encourages States with taxing provisions to insure that the funds do not fall below a specified floor.

Question. From EPA's experience, what has been the actual cost of cleanup from leaks or spills of petroleum underground storage tanks?

Answer. Because corrective action regulations have only recently been published, EPA cannot provide an accurate "average" or "typical" cost per site. Early insurance company data estimated that responsible party corrective actions were costing about $70,000 per site.

Corrective action costs performed by responsible parties vary with the amount of production released, the location of the release, the medium affected (e.g., surface water versus ground water versus soil), the extent of corrective action required, and the type of technology used. Responding to small leaks, discovered early, may cost only a few thousand dollars. Costs for sites with groundwater contamination, will be much higher, often more than $100,000 per site. However, EPA does not collect data on responsible party corrective action.

An EPA cost analysis of 46 Trust Fund sites indicates an average of $180,000 for corrective action including soil and groundwater remediation. This data is not typical of all sites, however, because the States used the Trust Fund to address the worst of the abandoned or previously unaddressed sites. As States have more experience with the Trust Fund, and with responses under the new regulations, EPA will obtain better corrective action cost data.

Question. What is the current status of the leaking underground storage tank (LUST) trust fund? How much has been expended? Of this amount, how much does EPA anticipate to be cost recoverable? What does EPA anticipate the commitments from this fund to be in 1989?

Answer. Congress has appropriated $114.4 million of Leaking Underground Storage Tank (LUST) Trust Fund monies to EPA, including $92.8 million that is available for cooperative agreements to States. Through February 1989, EPA has awarded $71.5 million to States. States had drawdowns of $14.7 million in Trust Fund money through February 1989. The drawdowns lag somewhat behind the real rate of activity in the States since they reflect drawdowns from the Federal Treasury which occur only after States actually disburse the money. The Agency's March 1989 report to the Appropriations Committees outlines in more detail the status of expenditures from the LUST Trust Fund.

EPA does not expect very high cost recovery rates since the statute directed use of the Trust Fund for abandoned sites, sites where the responsible parties are insolvent, or sites with financially distressed responsible parties.

Cost recovery will be a priority when dealing with recalcitrant responsible parties. It is difficult to determine exactly how much of the funds spent to date will be recovered, although the rate will probably be lower because of the lag time for judicial actions and estimate because of program start-up costs. Pilot studies involving cost recovery efforts in three States (Maryland, Minnesota, and New York) will give a better estimate of cost recovery potential when completed.

Question. What recommendations can EPA make to Congress in terms of dealing with this financial responsibility problem? Would the Agency support a reduction in the $1 million requirement? Would it support incentives for the creation of adequately funded state funds? What other options are available?

Answer. The Agency is not proposing any changes in legislation at this time. EPA has focused its efforts on activities that fall within statutory authorities, such as educating the insurance industry about underground storage tanks and regulatory requirements, working closely with industry to develop mechanisms that will meet the requirements, and providing support and technical assistance to many States developing their own programs.

The Agency has no evidence that a reduction in the required level of coverage (e.g., to $500,000) would significantly increase the availability or lower the cost of financial assurance. EPA exercised its statutory discretion to set lower coverage requirements for small firms that do not produce or market petroleum. However, there has not been any increase in the availability of assurance mechanisms even at this lower level.

EPA is supporting and encouraging the development of State funds through technical assistance and the State program approval process. The public, representatives of the regulated community, and States have suggested several alternatives to make financial assurance more available; however, most of them would require revisions to the statute. They include: low interest loan programs; expanding the Leaking Underground Storage Tank Trust Fund to provide reinsurance or guarantees for State funds; and, providing seed money for State funds.

QUESTIONS SUBMITTED BY SENATOR BYRD

KANAWHA VALLEY

Question. I am seriously concerned about the incidence of cancer in the Kanawha Valley area of West Virginia which has one of the greatest concentrations of chemical industry in the United States. A fact sheet has been received by my office, from the Kanawha County Health Officer, describing the incidence of cancer in both Kanawha County and the State of West Virginia. The fact sheet, which I am providing for the record, indicates that a 37-year Cancer Registry already exists at the Charleston Area Medical Center (CMAC). The data reflects 97 percent to 99 percent of all cancer diagnosed in Kanawha Valley. The NICS, which received its final phase of EPA funding in fiscal year 1989, feels that an epidemiologic analysis of this registry could help define the cause and effect relationship between cancer incidence and geographic proximity to the chemical industry. An amount of $55,000 is needed to complete analysis of this registry, including the services of an epidemiologist and data processing support.

This appears to be a very meritorious project and I hope that the EPA will give it every funding consideration under the regulations and guidelines of the Agency. I consider this to be a priority matter and would be appreciative if you would provide an early and favorable response for the record.

The following is the text of a fact sheet dated March 28, 1989, which was transmitted to my office in support of a request for funds for the Epidemiologic Analysis of a Cancer Registry located at Charleston Area Medical Center.

Answer. Because of the concentration of chemical manufacturing in the Kanawha Valley and the potential health hazard this presents, the U.S. Environmental Protection Agency has conducted a multi-year research effort in cooperation with the State and local agencies. As noted in last year's Appropriation Committee Conference Report, this research was to be completed with fiscal year 1989 funding and results shared with the State next year.

We concur that an additional investment of $55,000 is warranted in fiscal year 1990 to complete the analysis of the 37-year Charleston Area Medical Center Cancer Registry, and we will include it in our research plan for next fiscal year.

MARCH 28, 1989

FACT SHEET

Subject: Request For Funds For Epidemiologic Analysis of a 37 Year Cancer Registry Located at Charleston Area Medical Center.

PROBLEM

The Kanawha Valley area has one of the greatest concentrations of chemical industry in the United States. There is widespread concern amongst the general population that living in such close proximity to this industry is inherently a health problem. This perception exists in spite of the major advances resulting from the Clean Air Act, and other environmental legislation. Cancer of all types is the great concern of the citizens.

FACTS BEARING ON THE PROBLEM

1. The National Institute For Chemical Studies (NICS) is an organization founded for the purpose of facilitating better communication between the "Chemical Industry" and the public. NICS has received funding from the EPA for currently ongoing research with respect to health effects as they relate to the environment and the chemical industry. Harvard University was the principal investigator in Part I of the study dealing with measurement of 19 volatile organic chemicals and the cancer risk estimates associated with them. This study has been completed. Marshall University in Huntington, WV, is working with the same Harvard team on Part II of the study dealing with noncancer medical problems. This is being accomplished by doing a survey of children in all the elementary schools in the county. This study will be completed in the next six months.

2. A prospective Statewide Cancer Registry is being considered for this coming fiscal year. Consultation is being obtained to define the most cost effective approach to implementing the registry. This will provide future information concerning cancer patterns occurring in the State of West Virginia as compared to National Cancer Rates, and rates for selected industrialized areas of the Country. A modest

amount of the current EPA funding given to NICS is being applied to this effort. Funding for the actual Registry will be sought from the state of West Virginia.

3. A 37 year Cancer Registry already exists in Kanawha County at the Charleston Area Medical Center (CAMC), a 1100 bed University teaching hospital (West Virginia University). Five years of data are computerized. An additional 32 years of data are recorded manually. The data contained in this local Cancer Registry reflects 97-99% of all cancers diagnosed in Kanawha Valley. From a Public Health point of view, the concern centers on incidence data. There is no need for clinical management and outcome data contained in most hospital based Registries.

DISCUSSION

Kanawha County covers a 900 square mile area and has a population of about 227,000 people. The County is one of five counties in the State with the highest adjusted lung cancer mortality rates., The State of West Virginia had a 19% greater lung mortality rate as compared to the U.S., and Kanawha County had a 42% excess mortality rate for cancer of the lung as compared to the U.S. The State's adjusted cancer mortality rate (for age & sex) for all cancers during the period 1980–1985 increased by 11.1%, compared to the U.S. rate, which increased by 5.1% during the same period. The NICS study group feels that a selective analysis of the existing CAMC Cancer Registry will provide information that may help define possible cause and effect relationships between geographic factors, possible employment in the Chemical Industry and cancer. If no excess of cancer is found locally, that information will be helpful in allaying public concern about possible adverse effects due to living in proximity to chemical industry. This type of analysis could be used as a study model for other heavily industrialized areas of the nation as well.

Leukemias, Lymphomas, cancers of the lung, and cancer of the larynx, are the particular types of cancers that are of primary interest. These cancers would be targeted in the proposed epidemiologic analysis of the existing data base registry.

CONCLUSIONS

1. There is concern on the part of the public that there is an excess of cancer occurring in Kanawha County, and that this excess is due to living in proximity to the chemical industry.

2. A 37 year Cancer Registry exists at CAMC which can provide incidence data concerning cancer occurrence in the County.

3. An epidemiologic analysis of the data contained in the Registry may help define if there is a cause and effect relationship between cancer incidence and geographic proximity to the chemical industry.

4. Cost of doing such an analysis is as follows: (a) salary for an epidemiologist, $35,000; (b) cost of key punching and computer analysis, $15,000; (c) travel/incidental expenses, $5,000; and total, $55,000.

RECOMMENDATIONS

1. Funding be granted through NICS to accomplish the subject epidemiologic analysis.

2. This effort should begin as soon as possible in light of the public's concern about Cancer in the County.

Questions Submitted by Senator Hatfield

WETLANDS ISSUES

Question. If the EPA designates a specific wetland type, like Willamette Valley prairie grasslands, as being of special significance in Region X, does EPA have programs to assist in acquiring remaining sites, or experimenting with reestablishing that rare wetland habitat within its original range?

Answer. EPA does not have the authority to acquire wetlands. The Department of Interior is the Federal agency most active in acquisition programs for important U.S. wetlands.

Question. Does EPA regard all wetlands the same? In your regulations for protection and mitigation, do you have different standards depending on the relative value of wetlands based on type, size, location, and interconnection with surrounding areas?

Answer. The principal environmental criteria applied in the review of permit applications under Section 404 are contained in the Section 404(b) (1) Guidelines devel-

oped by EPA in conjunction with the Corps of Engineers. The Guidelines recognize wetlands, as a class of aquatic areas, as among the most important ecosystems protected under the Section 404 program. These regulations do not explicitly apply varying standards based on individual wetland characteristics such as relative value, type, size, location, etc. However, the evaluation process required by the Guidelines is sufficiently flexible to take into consideration individual characteristics of the proposed wetlands discharge site as well as project specific characteristics. The Guidelines allow evaluation and documentation for a variety of activities, ranging from those with large, complex impacts to wetlands and other aquatic systems to those for which the impact is likely to be innocuous. In addition, the Clean Water Act establishes a process for General Permitting (no individual Section 404 permit is required) for categories of activities involving the discharge of dredged or fill material in wetlands and other waters that will cause only minimal adverse environmental effects. Finally, in terms of mitigation, it is EPA's position that compensation for unavoidable wetlands losses permitted under Section 404 must be based on functional replacement. That is, a primary objective of mitigation is to ensure that compensation for wetlands losses will provide for, at a minimum, one for one functional replacement (i.e., no net loss of wetlands values) with an adequate margin of safety to reflect the expected degree of success associated with the mitigation plan. Consequently, the actual extent of mitigation required is directly related to the relative value of the wetland being impacted.

Question. The statement, "no net loss of wetlands" is really intended to deal with no net loss of values, rather than loss of total acres; am I correct? If so, can't we do more to protect the most valuable wetlands, and direct our efforts at making mitigation that replaces or improves overall values? I am interested because Oregon's land use plans place so much attention on compact growth within designated urban growth boundaries.

Answer. EPA's ultimate concern is protection of the multiple functions wetlands perform. However, these functions are often very difficult to measure without extensive field work. For an individual site, wetland functions are indeed taken into consideration. For purposes of measuring progress towards achieving the goal, however, wetlands acreage will most likely be used as a surrogate indicator for functions because of our limited scientific and administrative capabilities to evaluate wetland functions.

The problem with relying too heavily on the restoration or creation of wetlands to replace existing natural wetlands is the very high degree of uncertainty still associated with such attempts. Studies of the short-term success of restoration and creation projects indicate that about one-half have failed in some respect. Long-term success is even more uncertain, and very few studies are available assessing the replication of wetland functions over time.

The goal of "no net loss" does not imply that every wetland will be untouchable in all cases. Nevertheless, given the magnitude of past losses (over one-half the wetlands in the continental U.S. in the last 200 years) and the fact that we continue to lose wetland acreage, a substantial reduction in the loss of existing wetlands is called for.

Question. I am interested in wetlands, and both the University of Oregon and Oregon State University have capabilities to provide further research in wetlands in conjunction with EPA. What can you tell me with respect to designation of universities to serve as EPA wetland research sites?

Answer. Selection of parties to conduct activities in support of EPA's wetlands research program using extramural funding is generally done through the competitive bidding process, and academic organizations such as the University of Oregon and Oregon State University (OSU) are eligible to compete. We would encourage them to review requests-for-proposals issued by EPA's Office of Research and Development (ORD) and to respond to those which match their capabilities. An exception to this process was in 1989 when we signed an agreement directly with OSU to assess trends in Section 404 permitting in Oregon, because 0SU was determined to be the most qualified to perform the work. Our ORD laboratory in Corvallis, Oregon, also supports masters degree candidates and student interns from OSU.

Question. Does EPA have discretionary demonstration funding which could be used in Eugene, Oregon, for a pilot study to create wetlands along the Amazon Channel from Eugene to Fern Ridge Reservoir, to create a prairie grassland experimental station west of Eugene, and to study the feasibility of creating a nature center focusing on the rare prairie type wetlands? If not, would EPA be interested in considering future funding for such a demonstration study?

Answer. EPA Region X has provided $50,000 to the City of Eugene to assist in the development of a comprehensive local wetlands resource management plan. Our

support for this effort reflects our recognition of the values of the area's special wetlands types, such as the Willamette Valley grasslands. We are also pleased that the Nature Conservancy recently acquired a large area of grasslands near Eugene.

We believe that demonstration projects can be very helpful in advancing our understanding of wetlands systems, and that creating prairie grassland wetlands along Amazon Creek would be consistent with wetlands protection goals. We also believe the proposal for a nature center focusing on prairie type wetlands is meritorious. However, funding for such projects is not currently part of EPA's wetlands program. EPA is involved with an Oregon Department of Transportation project to create prairie grassland wetlands in order to replace losses due to highway construction near Eugene (West 11th Garfield Project).

Question. Please explain the definition of wetlands as it pertains to agricultural lands. If a site has the right soils and hydrology, and wetlands once existed on those farmlands, is that area a wetland? If farming is discontinued, and the site is likely to convert to a more natural vegetation, at what point does the Clean Water Act define that site as being a wetland?

Answer. Both EPA and the Corps of Engineers have adopted a multi-parameter approach to delineating wetlands under Clean Water Act jurisdiction. This approach requires that for an area to be identified as a jurisdictional wetland, it must possess, under normal circumstances, three essential characteristics: (1) hydrophytic vegetation, (2) hydric soils, and (3) wetland hydrology. Areas that in the past exhibited all three characteristics of wetlands, but which currently do not support a prevalence of wetland vegetation due to farming activities will in most cases be considered wetlands subject to regulation under the Clean Water Act. This approach is based on the position that under normal circumstances, these areas would exhibit all three wetland characteristics. Consequently, Clean Water Act jurisdiction can be asserted over farmed areas before the farming activities are discontinued and hydrophytic vegetation re-occurs, if the farmed area presently supports hydric soils and wetland hydrology. However, it is important to be aware that although an area is considered a wetland under Clean Water Act jurisdiction, certain activities being conducted in such areas may not be subject to the Section 404 permit program. For example, certain activities occurring in wetlands or other jurisdictional waters associated with farming practices exempted under Section 404(f) may occur without a Section 404 permit.

TRANSITION PERIODS/PESTICIDE RULINGS

Question. As pesticide reregistrations take place under FIFRA, use of some chemicals may no longer be allowed. As the determining data is evaluated by the EPA, what process will you utilize to notify and work with growers to reduce reliance on the pesticides?

Answer. Recent amendments to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA 1988) now require EPA to publish in the Federal Register the registrant's desire not to support a use, product or active ingredient prior to EPA taking action. The Agency plans to provide a 60-day comment period during which other interested parties may pursue reregistration. In addition, EPA has held meetings with state lead agencies, Interregional Research Project Number 4, the pesticide industry and others such as the American Association of Pesticide Control Officials and the National Association for State Departments of Agriculture to discuss the potential impacts of FIFRA 1988 and ways that user groups can share the burden of maintaining registrations for pesticide products that they consider necessary for commodity production. The Agency is also in the process of preparing a guidance document to assist registrants and others in the registration of pesticides for minor uses. The document will include a description of existing minor use policies and regulations and is intended to make registrants aware of the options for complying with the data requirements.

Question. In order to allow adequate notification to growers and pesticide users, should a notification requirement be made a formal part of the special review process?

Answer. A formal notification procedure is already part of the special review process. Proposed regulatory actions are published in the Federal Register and user groups are given a comment period in which to respond. In addition, for each of these regulatory actions, the Agency develops a notification plan and communication strategy that is specific to the regulatory action and is designed to inform user groups, state groups, and other affected parties. Press releases along with summaries of regulatory actions are also disseminated.

DINOSEB

Question. As you know, Mr. Reilly, before you became Administrator, the Environmental Protection Agency sought to cancel all registrations for the pesticide Dinoseb by emergency suspension order procedure, an act which the courts ruled unlawful in 1987 and 1988 in *Love* v. *Thomas*, 668 F.Supp. 1443 (D.0R 1987). In consequence, EPA entered into voluntary settlements with the last two registered manufacturers of Dinoseb under which the registrants agreed to cease manufacture of the pesticide and give up their registrations. This action left growers in the Northwest who have depended on Dinoseb to suppress night-shade and other weeds for 40 years on cash crops such as green peas, snap beans, lentils, cucurbits and caneberries without any recourse. At present time, because of the unique climate conditions in our region, we have not yet developed a substitute for Dinoseb as other regions have, despite an appropriations bill to that end. As matters stand, without Dinoseb or a substitute the Northwest region will suffer an economic loss of more than $33,334,000 during the 1989, 1990 and 1991 growing seasons, and many of our growers will go out of business. I am interested in obtaining your views on how to effectuate an orderly transition from Dinoseb to an as yet undetermined alternative.

I understand that the 9th Circuit Court of Appeals has recently upheld the Oregon District Court in approving the EPA's final cancellation for Dinoseb. In the absence of a suitable alternative pesticide, I am interested in your views on how we can mitigate the damage to the Northwest growers who are dependent on Dinoseb to prevent night-shade and other weeds from destroying the green pea and snap bean crops. Can EPA extend the transition period from dinoseb to some yet-to-be developed alternative by granting a new temporary registration for Dinoseb for a two-to-three year period to permit growers in the Northwest to continue its essential use on green peas, snap beans, lentils, cucurbits and caneberries under the same strict conditions of application as currently apply to use of existing stocks this season on caneberries in Washington and Oregon, under Subpart D of EPA regulation, 40 CFR Sec. 164.131?

Answer. No further use of dinoseb, except as specified in the Final Cancellation Order can be considered unless a formal "Subpart D" Hearing is held. Such a hearing would only be granted if significant new information on the risks or benefits was made available. The Agency considered all information submitted by growers, researchers, and others on the usage of dinoseb and alternatives in its cancellation decision and, at this time, the Agency does not believe any significant new information exists. We believe the Agency's assessment of the risks and benefits of dinoseb was correct and has been thoroughly aired both within EPA and in the courts. EPA continues to believe that dinoseb's potential to cause developmental toxicity effects and male reproductive toxicity are significant and that use beyond that allowed in the Final Cancellation Order is not warranted. It should be noted that the Subpart D Hearing, if initiated, is a lengthy and protracted process and could not be completed in time to offer relief for the 1989 growing season.

Question. Can EPA extend the transition period from dinoseb to some yet-to-be developed alternative by permitting existing stocks of dinoseb to be supplemented by purchases from outside the United States so that it could be continued in use for two/three more seasons until replaced by a suitable alternative?

Answer. As noted above, dinoseb is cancelled and can only be used in accordance with the Final Cancellation Order, and therefore any further use beyond the Final Cancellation Order would have to be the result of an affirmative finding in a Subpart D Hearing. It is important to note that any appreciable existing stocks of dinoseb are not formulations that can be used on Pacific Northwest crops such as green peas and snap beans.

Question. Can EPA extend the transition period from dinoseb to some yet-to-be developed alternative by granting a Section 18 (FIFRA, 7 U.S.C. Sec. 136p) determination of emergency conditions to requests from Oregon and Washington to use Dinoseb for two/three more seasons on Northwest crops under the same strict conditions of applications as for the caneberry crops this year?

Answer. A Section 18, emergency exemption request would also be regarded as a petition for a reconsideration of a Final Cancellation Order and would be subject to a Subpart D Hearing before it could be granted. The Agency has worked extensively with various Congressional staff to explain the dinoseb situation and make certain it was understood that requests for the use of nonregistered alternatives be submitted to the Agency to allow time for evaluation before the 1989 growing season. To date, one Section 18 has been issued to Oregon for the 1989 season for the use of Pursuit on dry peas, chickpeas, and lentils. The Agency remains ready to expedite the review and processing of registration and Section 18 actions for alternatives.

QUESTIONS SUBMITTED BY SENATOR ADAMS

OIL SPILL CLEANUP

Question. I would like to know the types of existing and planned programs within your agency that pertain to funding of local and state oil cleanup project. Furthermore, please provide details of any interagency and/or interagency response mechanisms pertaining to oil spills in which the EPA is involved, or plans to be involved. Also, please describe any research and development oil spill cleanup programs that exist within or are funded by EPA. Additionally, please provide total dollar figures, by program categories, of the amount of EPA funding that were budgeted for oil spill cleanup programs in 1989, and total dollar figures budgeted for 1990.

Answer. At present, there are no existing or planned programs within EPA to fund local and State oil cleanup projects. Response to or cleanup of oil spills is legally required of the responsible party. Further, many coastal states have their own oil spill programs and funds and would resist their preemption.

The Clean Water Act provides oil and designated hazardous substance response authorities to the EPA and the United States Coast Guard. This authority includes the ability to monitor responsible party cleanup to insure an appropriate response is conducted, and for an EPA or Coast Guard response if the responsible party is not adequately responding. There are two primary interagency response mechanisms pertaining to oil spills in which EPA is involved. The Regional Response Team (RRT) consists of Federal and State agencies immediately involved in, or affected by, a spill. The RRT provides action-specific technical guidance and support, such as establishing response priorities and giving advice on how and when to use dispersants. The National Response Team is an organization of 14 Federal agencies that convenes regularly and coordinates Federal response personnel and equipment for national level actions.

EPA total dollars budgeted for the oil spill program element are:

	Total oil spills
FY 1989 operating plan	$3,734,300
FY 1990 budget request	2,733,700

The decrease in the request results from the completion of several oil spill research and development projects. EPA's oil spill control program has completed the following projects: In-place Burning of Oil Spills in Cold Climate; improved Laboratory Dispersant Effectiveness Test; on-site Field Dispersant Effectiveness Test; and the Newfoundland Offshore Oil Boom Test (actual large-scaleoil spill test).

As its major goals have been completed, the Agency's oil spill research effort has, over the past several years, been phased-out. No funding was requested in 1989.

NATIONAL ESTUARY PROGRAM

Question. Under the National Estuary Program (NEP) that was established by the Water Quality Act, the EPA Administrator assumes significant responsibility to promote comprehensive planning for estuaries of "national significance" that are threatened by pollution, development, or overuse. Presently, I have been informed that there are 12 estuaries that are part of the program, each receiving between $500,000 and $1 million in 1989.

The NEP was created in 1987. At that time the Puget Sound Water Quality Plan was already 2 years old. Accordingly, the Puget Sound Plan has proceeded beyond policy management development and into direct implemention. In fact, state law demands that a management plan be implemented. Currently, both state and local government jurisdictions contribute a substantial amount of funding. Because of this long history, many estuary programs within the NEP have modeled their plans after Puget Sound. I would like to know whether there are any programs within the NEP that have reached the point of development, such as that which is found in the Puget Sound Plan.

Answer. The Puget Sound Estuary Program is certainly a success story. The Washington legislature in 1985 established the Puget Sound Water Quality Authority (PSWQA) with a clear mandate for protection of the water quality of the Sound and provided funding to support the work of the Authority. Since that time the PSWQA has worked closely with EPA, other state agencies, and the communities of the Puget Sound to make progress in such areas as management of nonpoint source pollution, protection of shellfish, wetlands protection, and control of municipal and industrial discharges. The Puget Sound program was one of four estuary projects selected by EPA in 1985 for funding support prior to the legislative establishment of the NEP under the provisions of the Water Quality Act in 1987.

The three other early estuary projects also have made considerable progress since they began in 1985. The programs for Buzzards Bay (Massachusetts), Narragansett Bay (Rhode Island) and the Long Island Sound have identified the critical problems facing those waterbodies and are developing comprehensive management plans to address them. The plans for Buzzards Bay and Narragansett Bay are expected to be completed in March and December 1990, respectively, while the comprehensive plan for Long Island Sound is expected in November 1991.

Question. The Governor of the state of Washington is also developing a cooperative agreement with the Premier of British Columbia to work on environmental issues impacting both regions (including Puget Sound issues). Are you aware of other states taking this initiative with their international counterparts?

Answer. Work on coastal issues by the states with their international counterparts is going on in several forums. One longstanding forum is the International Joint Commission of the U.S. and Canada, which is where the EPA and the Great Lakes States work with their Canadian counterparts on the implementation of the Great Lakes Water Quality Agreement of 1978.

More recent examples include work beginning in 1988 on the Gulf of Maine Initiative by the States of Maine, New Hampshire, and Massachusetts, and the Provinces of Nova Scotia and New Brunswick. The focus of the Initiative is the production of a State of the Gulf of Maine report and a limited monitoring program.

Another arena is the Gulf of Mexico Program, which was begun in 1988. This program will provide a mechanism through which the five Gulf States can work with Mexico and the Caribbean nations to improve the health of the Gulf of Mexico.

SUBCOMMITTEE RECESS

Senator KERREY. The subcommittee will stand in recess until tomorrow morning at 10 a.m., when we will continue to take testimony from the Environmental Protection Agency. The hearing will take place in SD-116.

[Whereupon, at 3:43 p.m. Monday, April 10, the subcommittee was recessed, to reconvene at 10 a.m. Tuesday, April 11.]

VA, HUD, AND INDEPENDENT AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1990

TUESDAY, APRIL 11, 1989

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10:07 a.m. in room SD–116, Dirksen Senate Office Building, Hon. Barbara A. Mikulski (chairman) presiding.

Present: Senators Mikulski, Garn, Lautenberg, D'Amato, Grassley, and Nickles.

ENVIRONMENTAL PROTECTION AGENCY

STATEMENT OF WILLIAM K. REILLY, ADMINISTRATOR

ACCOMPANIED BY:

JOHN A. MOORE, ACTING DEPUTY ADMINISTRATOR

CHARLES L. GRIZZLE, ASSISTANT ADMINISTRATOR FOR ADMINISTRATION AND RESOURCES MANAGEMENT

EDWARD E. REICH, ACTING ASSISTANT ADMINISTRATOR FOR ENFORCEMENT AND COMPLIANCE MONITORING

GERALD H. YAMADA, ACTING GENERAL COUNSEL

LINDA J. FISHER, ASSISTANT ADMINISTRATOR FOR POLICY, PLANNING AND EVALUATION

JENNIFER MANSON WILSON, ASSISTANT ADMINISTRATOR FOR EXTERNAL AFFAIRS

JOHN C. MARTIN, INSPECTOR GENERAL

REBECCA W. HANMER, ACTING ASSISTANT ADMINISTRATOR FOR WATER

JONATHAN Z. CANNON, ACTING ASSISTANT ADMINISTRATOR FOR SOLID WASTE AND EMERGENCY RESPONSES

DON R. CLAY, ACTING ASSISTANT ADMINISTRATOR FOR AIR AND RADIATION

VICTOR KIMM, ACTING ASSISTANT ADMINISTRATOR FOR PESTICIDES AND TOXIC SUBSTANCES

ERICH BRETTHAUER, ACTING ASSISTANT ADMINISTRATOR FOR RESEARCH AND DEVELOPMENT

DAVID P. RYAN, COMPTROLLER

OVERVIEW

Senator MIKULSKI. Good morning, everybody. The subcommittee will come to order. Today we'll continue to take testimony from EPA and then hear from the Council on Environmental Quality.

92-981 O - 89 - 14

We're delighted today to have our ranking minority member, Senator Garn, here to participate in the hearing.

Mr. Reilly, today my questions will include water quality issues, Federal facility compliance with environmental regs, pesticides, asbestos funding, and then the personnel profile of the Agency. We're glad you made it back today and we'll move on.

INTRODUCTION OF SENATOR GARN

Senator Garn, do you have any opening statement that you'd like to make?

Senator GARN. I would. You said you were delighted to have me here and I thought I might explain why I have not been here.

Senator MIKULSKI. Well I think I know.

Senator GARN. Well I know you know, but I have been embarrassed: after 10 years on this subcommittee and 6 years as its chairman, this is the first subcommittee meeting that I have not attended and I felt like I left Senator Mikulski in the lurch.

But the reason for that is that I also happen to be ranking on the Banking Committee, and I think most of you are aware of the S&L crisis. Senator Riegle and I conducted 17 hearings—most of them 3 or 4 hours long, they started in February—17 separate hearings on the issue.

And then we have been holding for the last 2 weeks daily caucuses of all of the Republican and Democratic Senators on the committee to boil the bill down to the point where we could produce a committee print: for the last week, 7 or 8 hours continuously—if people want to go eat, they left and came back. And we will go to markup, Madam Chairman, tomorrow morning at 10:15.

So the only reason we finally got a day off after weeks of working on this incredibly difficult problem is to let legislative counsel write a bill, write in the legal language of what we have been doing.

So I appreciate the opportunity to make that explanation. I have not been lolly-gagging and deliberately avoiding my responsibilities on the subcommittee, it's just that it's a $100 billion problem and it's hemorrhaging at the rate of $1 billion a month and the sooner that Congress produces a solution to that problem, the better off we're going to be.

But I'm delighted to be with you today.

Senator MIKULSKI. Thank you very much, Senator Garn.

We also recognize that you have a very special responsibility in this S&L crisis and we'll cooperate with you in any way we can to provide the flexibility you need to meet the responsibilities you have.

I don't know if you're going to boil the bill down but I hope you're going to boil in oil some of the people who took advantage of the flexibility we provided to them. And I have some of my own comments——

Senator GARN. I will guarantee you that the civil and criminal penalties of the bill—that has not been one we have had to discuss. The President's proposal started out increasing the penalty from $10,000 a day to $1 million a day. So the penalty has changed rather dramatically.

One of the other things that has been the most difficult to address: most people are not aware that 59 percent of the entire losses that we're talking about occurred in only two States: Texas and California, with State-chartered institutions. There are none that we can find that failed until Federal deregulation.

So we've got a very difficult problem: how do you maintain States' rights but also maintain the viability of the Federal insurance program?

We will have a solution to that, so that's fine, States continue to do anything they want but they're not going to have Federal insurance under the same provisions if they allowed State-chartered institutions to proceed in powers beyond what Federal law allows.

Senator MIKULSKI. Senator Lautenberg, do you have an opening statement or do you want to just wait? Do you have any questions?

INTRODUCTION OF SENATOR LAUTENBERG

Mr. LAUTENBERG. No.

Senator MIKULSKI. I'm going to move on to questions concerning the Chesapeake Bay.

CHESAPEAKE BAY PROGRAM

Mr. Reilly, you're requesting $12 million for the Chesapeake Bay Program. This is $200,000 less than fiscal 1989 and $1 million less than the authorized amount.

Why have we reduced the funding and what activities are planned for fiscal 1990?

Mr. REILLY. Senator, let me say first that we give Chesapeake Bay restoration and improvement a very high priority. I think that it's had that for the past several EPA Administrators.

I can recall a conversation with one who said to me it's one of the few thoroughly positive and popular programs that you will get involved with.

And we have, I think, made a substantial contribution to water quality in the bay over the past several years. A number of things have happened—you are more familiar with many of them than I—that have made a difference. Most particularly the involvement now of the Governor of Pennsylvania and on the retention of pesticide runoff, an ongoing source of problems, in Pennsylvania, which previously had been causing a good many problems but without very much serious attention to it.

The $200,000 reduction in funding is not, by any means, the sign of a trend. It has occurred this year and I will let—or ask Rebecca Hanmer, our Acting Administrator for Water, to comment specifically on it and on some of the things that we have done in this past year and expect to do in the forthcoming year with those funds.

TOXIC REDUCTION STRATEGY

Ms. HANMER. Essentially the $200,000 reduction was just a matter of adjustment between the Chesapeake Bay Program and our Permitting and Enforcement Program. And it had to do with the toxics reduction strategy. We felt that perhaps the toxics reduction strategy worked in the bay program would be far enough

along that we could take the reductions there in lieu of taking it some place else.

The toxics reduction strategy places a lot of demand on the Base Water Quality program and so we felt it was better to focus in on the capacity of the Water Quality Standards Program and also the Base Permitting Program to support those activities.

We'll be going out and doing our reviews in a couple of months of how the programs are going and if it turns out that we are wrong, that the progress that's being made in the Chesapeake Bay Program is not adequate to keep up with their work under the toxics reduction strategy then we will reconsider our adjustment.

Senator MIKULSKI. Well I have two questions in regard to the Chesapeake Bay. The bay program has been a model for estuary protection and management.

ENFORCEMENT OF TOXIC WASTE LAWS

We're concerned that the Chesapeake Bay is polluted because the toxic waste laws are not being adequately enforced.

For example, the Post in an article in February gave this example:

> When trucks hauling septic waste pull up to Richmond's sewage plant, drivers flush their cargo down unguarded manholes, no questions asked. They are on the honor system to tell the plant whether their load contains toxic chemicals.

That's one example. And we don't know if that's an isolated example or if it's widespread.

We understand from an EPA memo that as many as 47 percent of the Nation's sewage plants might be violating the Toxic Waste Program's regulations.

I wonder if you could comment on that and if this is an area where more resources are needed, because it is toxic waste management at sewage treatment plants that affects our bay.

Ms. HANMER. Both of those examples were from the Chesapeake Bay pretreatment report in which the Chesapeake Bay Foundation had someone look in depth at how the cities in the bay region were implementing their pretreatment programs. We agreed with a lot of the recommendations that indicated those programs had to be strengthened.

The 47 percent is from our comment that while we've made a lot of progress in that program, at least 47 percent of the cities have at least one major defect in how they're operating their pretreatment program. So as a result of that we're focusing in 1989 on a pretreatment enforcement initiative to try to shape this up.

RESPONSIBILITY FOR PRETREATMENT PROGRAMS

We have two problems, one of which is symptomatic of a broader problem that occurs in the bay: the States who operate regular permit programs have not been as willing to pick up responsibility for the pretreatment program. And one of the ways in which we could do better enforcement in Virginia, for example, is to have Virginia assume that program. A number of States have not done so. So there is a burden on EPA that is much larger than the pretreatment program. And we have about 115 work-years, I think, in the Agency for it.

Senator MIKULSKI. But you think you have enough resources?

Ms. HANMER. Assuming that the States will go ahead and pick up this program, yes.

Senator MIKULSKI. But have you talked with the States?

Ms. HANMER. We have been pressing all of the major States.

Senator MIKULSKI. And what has been the reaction?

Ms. HANMER. Lack of funding, lack of priority. We have done a number of things to try to make the program easier to operate through our regulations and also through our guidance documents.

EPA assumed the burden of approving all the programs, so the major slug of work in our pretreatment programs, getting the programs established in the first place, has been done.

Senator MIKULSKI. You're saying we're working on this and we hope the States pick up on it, but then they say, "Well we don't have the money." I don't want to come back next year and see that no progress has been made.

Could you tell us what specific steps that the Agency intends to take?

Ms. HANMER. Essentially the answer is funding and competing demands for taking on sludge permitting, which is a new requirement, nonpoint source, which is a relatively new requirement, those kinds of things.

We are doing a couple of things that I think could create an incentive for the States to take the program. One of the things is we're considering reconvening a task force which we had 5 years ago to shape up the pretreatment program, to take another look at it and do a midcourse correction. In that midcourse correction we'll have to focus on the role of the States. And I think we, perhaps, can do a better job than we have of convincing them that the program is not as resource-intensive as they think.

While the cities have some defects, the data we've been putting in the computer the last 2 years indicates that substantial progress has been made in this program; about 85 percent of the significant industrial users are in compliance. And so it's not a Pandora's box any more, it is a manageable program and we'll try to convince the States of that.

RELATIONSHIP WITH THE NATIONAL GOVERNORS ASSOCIATION

Senator MIKULSKI. My time is almost up. We're going to follow the 10-minute rule as we rotate among ourselves.

Mr. Reilly, yesterday we talked again about some of the relationships with the Governors and so on. It would be my very strong recommendation—whether it's on sludge or on sewage treatment construction grants—that the Agency establish a very strong relationship with the National Conference of Governors.

I'm very impressed with the activist nature of Governors these days and their sophistication and their desire to come to grip with problems.

Mr. REILLY. Senator, let me say I met with the National Governors Association a couple of weeks ago and heard about their concerns, and I think made clear to them that I do believe, as I said yesterday, that a lot of the best industries, the best ideas that we see are coming from the Governors.

I also then met last week with the National Governors' Association staff representatives and with a number of State associations and I guess the week before that with all the attorneys general from the States.

We have some patterns of cooperation that I think are working reasonably well. I heard about a number of things that are not, but we will give a very high priority to that. And recognizing that we're dealing with some resource issues that we're not likely to have resolved because there's not enough money to do a lot of these things, whether there or at the Federal level. But with the resources we have we certainly have the best intentions to be partners.

Senator MIKULSKI. Senator Garn, did you have some questions?

Senator GARN. Yes, thank you.

RADIO FREQUENCY RADIATION

EPA has terminated its efforts to develop a Federal standard for radio frequency radiation and that was a process that started in 1986 to evaluate the cost of adverse health effects of human exposure to electromagnetic energy. Both the FCC and National Telecommunications Information Administration in the Department of Commerce would like this completed.

Could you explain why EPA has elected to terminate that particular program?

Mr. REILLY. I'm going to ask that Don Clay, Acting Assistant Administrator for Air and Radiation address that.

Senator MIKULSKI. Can I ask the question from a technical basis? Are you concerned essentially about the electromagnetic pollution or other effects from that?

Senator GARN. The harmful health effects.

Mr. CLAY. It's a matter of competing priorities. What we did was stop work on it now. We found we were doing too many things in our radiation program, we were going in too many directions all at one time and we made a conscious decision to prioritize what we wanted.

We agree that it is important work but we thought that it was not as important as some of the other work we were doing, and in times of tight resources we prioritized and we talked to the Administrator and got agreement that we would put that off. So we hope to go back to it some time, but not in the near future.

We did put into the fiscal year 1990 budget, though, some work to continue our monitoring capabilities.

Senator GARN. Well I fully understand the problem of having to prioritize, but it was my understanding that you were close to completing the standards and all you needed was another $1 million to finish it.

Mr. CLAY. We have done substantial work. A lot of work has been done. Maybe a million, a little less. A million dollars is a lot of money in terms of the radiation program.

Senator GARN. Like I say, the main reason for my question is if you get something near completion—that would be my next question, was it near to completion?

Mr. CLAY. It was several years away, sir; at least 2 more years of work.

Senator GARN. Just in the order of priorities of other programs going on, many of them $1.5 million—as important as completing one aspect of this, where some of your other programs of even longer term than that.

Mr. CLAY. Well, there are many competing things we're doing in radiation programs. We are going off on a low-level effort on many activities, and we sat down and looked at them and prioritized them and decided that was one to delay. It was a hard decision. But we share your concern, there is a problem there.

DIESEL EMISSIONS STANDARDS

Senator GARN. Mr. Reilly, let me ask you about the diesel emissions standards. I'm sure you're well aware of the fact that in 1985 we set some much more stringent standards for use of buses in urban transit systems.

Speaking as one who has followed the buses in my own city, I can't dispute wanting to do that. However, my own transit system in Salt Lake City, as well as the national association, is very concerned that now they are being required to meet these standards by 1991, for trucks by 1994. And in the interim standards use something like catalytic converters related to automobiles that are supposed to be able to be put on relatively cheaply during the interim period. It's technology that they don't want to use and manufacturers are essentially abandoning this area.

In my own transit district they simply say we're going to wait until 1994, we're not going to spend that money, so the goal of reducing those emissions made sense but we're going to keep older buses longer. It seems to me that this is a regulation that's going to increase the particulate matter problem.

And I would wholly agree that it makes sense that the new technology that is coming along for 1994—for trucks to have to meet it by then, whereas the urban transit use is such a minuscule portion of the overall manufacturing of diesel engines compared to trucks, it seems to me it would make sense to say, OK, you've got to comply by 1994 because you're not going to get any improvement in that 3-year period; they're simply not going to do it. They will only buy buses if they absolutely can't keep one running during that interim period of time.

So what is your response to that?

Mr. REILLY. I appreciate the concern to try to insure that mass transit continues to be strong and play the role that it does.

Secretary Skinner, with whom I have long conversations about Alaskan oil, raised that same question with me and I agreed to meet the representatives of the public transportation systems who I gather will make the point that there simply is not a sufficient market for buses to warrant new equipment standards and that there is likely to be a failure to meet those standards.

I will get more involved with it and in the meantime, Don, if you want to comment on the history of this and the peculiar applicability to the transit systems.

It does strike me they've had several years to think about this coming on, however, and only now they've begun to raise it——

Senator GARN. Well let me just stop you there. It doesn't matter how much time they've had to think about it, I think the technology for one thing has changed, and rather than do a tack-on for 3 years they would rather have a more comprehensive solution, because the truck market is obviously the huge market in diesel engines. If you're going to get a substantial improvement, that's one area.

But I do know the general managers of the Utah Transit Authority simply says it doesn't apply to existing buses, it applies to new purchases. So they simply will keep their older buses for as long as they can to wait for a comprehensive solution rather than spending money in the short term. Even if the manufacturers provide the interim solution, they don't want to spend the money.

Mr. REILLY. And there's a concern, I gather, that if no buses are bought in the United States in that interim period that we'll lose our manufacturing base.

Mr. CLAY. The Senator is right, the bus market for the engine—the bus share of the heavy duty engines runs several percent. At the time they did this standard they hoped the trap oxidizers would be available for both trucks and buses and that's not going to happen until 1994. On the other hand, alternative fuel buses can in fact meet the standard—a methanol bus would, in fact, meet the standards, also compressed natural gas. So it's not clear that no diesel engines will be able to meet it in 1991.

The Administrator has a petition in to the Agency asking for relief and we'll be briefed on that and make a decision in response to the petition as to what he wants to do.

The thinking was—the early on thinking was that buses are in such heavy urban areas and so many people are exposed to such a visible emission that it would be very important to make an early step.

A lot of what you see on the television in the summer about ozone is really particulate matter from buses: it's very visible, a lot of people are exposed and it's very bad. So we'll be pressured one way or the other.

But you're certainly right, at the time they did it they were hoping the trap oxidizers would be available. They will not be.

BUS EMISSIONS

Senator GARN. I don't disagree with you, it can be met in alternative ways, and that's why I made the statement I did. I follow the buses, too. And I usually close the windows, close the vents so the outside air in the air conditioner isn't coming in.

But my point is they're not going to—most of them are not going to comply by stretching it, because they want to wait for the comprehensive standards. It's a practical thing. I'm not arguing with you that they could do other things.

But my information is the majority of them are not because they want—buses stay in service a long period of time. And they would like to get the comprehensive fix by 1994 when they have the new technology for trucks—and obviously if you're making those new

engines for trucks they're going to be cheaper because of the volume of production. So that's all I'm appealing to you for, is to look at it from a practical standpoint of what is going to happen. I'm still going to be smelling those buses in Salt Lake City whether these standards go into effect or not. They don't have to fix the old ones; it's only new purchases and they're not going to buy them.

Mr. REILLY. We will do that, Senator.

Senator GARN. That's all I have in this round.

Senator MIKULSKI. Thank you very much.

The Chair welcomes Senator D'Amato.

We're now going to turn to questioning from Senator Lautenberg. I just want to advise the Senators we're going to rotate through in 10 minutes.

We've also been apprised that you, Mr. Reilly, have to be at the White House by noon. So wherever we are at 11:30 or 11:20 or thereabouts we'll wrap it up to give you the opportunity to make an expeditious departure, half an hour to get through the traffic and 10 minutes to get through the White House security. [Laughter.]

Senator Lautenberg.

Senator LAUTENBERG. Thank you most considerate Chairperson. [Laughter.]

FISCAL YEAR 1990 REQUEST

Mr. Reilly, we're, of course, always happy to see you to discuss the problems that we share and mutual commitments to solve. We've had other discussions in the environment committee about how much we're going to spend to do the job that we face. You know that I am dismayed by the cut in sewage construction grant money, $0.5 billion, that Superfund's increase in appropriation recommended that over last year while significant, $300 million in rough terms, is still far below the target of $8.5 billion spread over the 5 years from 1986 to 1991.

So I think it's fair to say that we're short resources, that the Bush budget for 1990 on environment protection as the one that President Reagan presented, shows a cut in real terms of about $0.25 billion and the tasks continue to expand.

WASHINGTON POST POLL

It was interesting that in a poll taken and produced in the Washington Post last week it showed that while we have interests in other things—minimum wage, for instance, 84 percent of the people polled supported an increase in the minimum wage—but when asked what they'd like to see on the legislative priority, put it way down, somewhere around 19 percent.

When asked what they consider to be the hottest or the most serious legislative priority, they said the environment, 62 percent, if I remember correctly, not only said they wanted a clean environment but said that they wanted—they were willing as well to pay for it and that flies in the face, very frankly, of the kind of commitment we've got from the administration to continue the job.

In some places it's partially successful, but on the way to doing very positive things, again like sewage construction grants, we find

out that there are many more communities that have met the standard, but still in all, we have a greater volume of material to be treated and that the progress that we've made could easily be cut short.

WASTE REDUCTION

One of the things that affects this is something that you and I share as an agenda item and that is waste reduction. You know that I've introduced legislation to promote the waste prevention technology. And it's too bad that as we spend billions of dollars to clean up the waste in 1989, EPA plans to spend only about $14 million to encourage prevention of waste.

Do you see a need for an increase of resources and commitment in this area?

Mr. REILLY. I certainly see a need for an increase in priority in what we do with this. I would like to make the whole subject of pollution prevention, changes in processes, encouragements to recycling, encouragements to manufacture biodegradable products, a very high priority in the Agency.

I'd like to see us look across all of our programs to insure that, at a minimum, we're not getting in the way of any of these initiatives. We have our Pollution Prevention Office; it has the funding you mentioned. We are also looking over the budget to see if we can't enhance the resources across the budget to try to promote some initiatives in pollution prevention.

One thing that we have done is to announce the intention to make a fund available of, I think, $11 million or so for priority pollution prevention projects that are to be proposed by other programs in different parts of the country on a competitive basis for demonstration funding for trying to see what kinds of options ought to get our priority attention.

We will continue to do that. We will try to relate all of our programs to this objective. It will entail not just the use of our regulatory activities, it really asks that EPA play a role of public educator and communicator, and I hope leader of this movement that I see beginning to build in the country to try to cut down on the generation of waste that we have.

I was saying yesterday I think that it's really shocking that the United States generates so much more waste than some of the other very successful, very industrialized, economically productive countries.

But that also can give us encouragement that there's a lot of progress we can make without inhibiting our economic activity, just as back in the 1970's in the energy area we learned to reduce the amount of energy used per unit of GNP and we can afford it economically.

EPA POLLUTION PREVENTION PROGRAMS

I might ask Linda Fisher to discuss some of the specific programs we have underway, if you'd like to hear about it.

Senator LAUTENBERG. Sure, in short form, Linda.

Ms. FISHER. We have a number of activities underway designed for the building of pollution prevention technologies, techniques

and ethics both in the Agency and State and local government and in private industry.

Recently we awarded, I believe it's $4 million, in grants to different State programs. We are going to go out and advertise for another $3 million in grants that we will be awarding later this summer again to States so that they can build up their own programs. We're specifically looking for States that have cross-media pollution prevention programs, that have looked across their own State to see where their major waste problems are and targeted their programs to address their own State needs.

Additionally, we've been looking at the regions, and we're going to have demonstration programs in about six of our regions, again looking for unique and different ways of dealing with prevention so that through all these different ideas we'll be able to cross-fertilize and share both within the regions and within the States.

AVAILABILITY OF FUNDS FOR STATES

Senator LAUTENBERG. We need your help. And one of the best ways to help is to make funds available to States on, perhaps some kind of a decent participation basis to encourage the states.

I always think that New Jersey is in the forefront of good things and certainly on the environmental issues, you know. We fight very hard against pollution and there are significant waste reduction reviews taking place there.

We need your help and we need your energy in terms of when we next budget, the first full cycle we'll have, to get funding for waste reduction programs, and I encourage you to continue the initiatives that you have.

The 1990 budget, the Reagan budget, calls for cuts in the emergency planning components of the right to know section of the Superfund, and you know that I had a significant authorship role to play there.

EMERGENCY PLANNING

Do you see EPA having a more significant role in emergency planning, looking for more budget support there, or is that not something that you think is necessary?

Mr. REILLY. Do you want to respond to that, Jon?

Mr. CANNON. Senator, we did drop about $170,000, I guess, in our request from last year, if you include the add-on which was incorporated into the budget after review and enactment on the Hill.

We have increased above last year's resources 1.5 FTE and we have also moved some more FTE to enforcement, so we have about a doubling of available enforcement FTE in title III, which I know is in line with recommendations you have made to us in your budget proposal.

Senator LAUTENBERG. You asked for more emergency planning and emissions inventory work than OMB allowed. What activities will be affected by their disallowance?

Mr. CANNON. I think if there were additional resources available they would have gone into information management, which is key in the State and local implementations of title III and also into en-

forcement, resources, building capability within the States and localities.

Senator LAUTENBERG. What's the size of the cut from your request initially?

Mr. CANNON. My understanding is that we requested from OMB a total extramural and intramural fund of $7.3 million; and have $5 million in the President's budget. And similarly requested a total of 47 FTE and the President's budget now reflects 32 FTE.

Senator MIKULSKI. Senator D'Amato, we welcome you, if you have an opening statement, also any questions that you may have.

Senator D'AMATO. Thank you, Madam Chair. In the interest of time, I would ask that my opening statement be submitted for the record.

Senator MIKULSKI. Without objection.

[The statement follows:]

STATEMENT OF SENATOR D'AMATO

Madame Chair, I would like to welcome to the subcommittee this morning William Reilly, Administrator of the Environmental Protection Agency and A. Alan Hill, Chairman of the Council on Environmental Quality.

Good morning gentlemen, I look forward to your testimony.

The EPA's commitment to protect the public's health and environmental welfare is a monumental task. Environmental issues received a great deal of attention in the media and played a visible role in the Presidential race.

One of the issues of great concern to many New Yorkers is that of medical waste. Many of Long Island's beautiful beaches were forced to close last summer as the tides washed in blood vials, syringes and surgical tubing. Congress responded by passing the Medical Waste Tracking Act which recently was implemented by EPA and the participating States.

Unfortunately, Congress has not moved as quickly to tackle this Nation's air pollution problems. The 100th Congress came and went without any action to reauthorize the Clean Air Act. Last summer's hot weather produced a record number of ozone violations across the country as well as in New York. New York City violated the ozone standards 25 times during 1988. In 1987, the number of violations was 19.

In 1986, Congress reauthorized Superfund to the tune of $8.4 billion over the next 5 years. The Superfund Program is essential in that it provides the Federal Government with the authority to respond to emergencies involving hazardous substances and develop long-term plans addressing the most serious hazardous waste problems. There are many sites in New York State that are either on the national priorities list or waiting to get on that list. The problem, as we all know, is that there are too many sites needing attention and not enough money to act at each site.

Thank you, Madame Chair.

BUS EMISSIONS

Senator D'AMATO. Mr. Reilly, it's good to see you and your staff.

At the outset, let me—I might make a comment as it relates to particularly to the area Senator Garn talked about, and I wasn't here for all of his questions, but part of this is related to the buses and the emissions.

I have to tell you, coming from New York, they are horrendous, they are unconscionable, and we've got to do something. And to simply continue giving them waivers is not the answer. What we have is an institutional mentality that says, this is the way we're going to do it and we're going to continue to do it.

ALTERNATIVE FUEL ENERGY

We provided some $35 million for alternative fuel energy sources which, as some of the people who are with you have suggested,

methanol, ethanol, and natural gas are there. There's no reason for the industries not to begin moving in this direction as it relates to the purchasing of new buses. And so might I suggest that there be a review.

Obviously you can't have somebody undertake the wholesale switching of buses that aren't there, but as it relates to what are they doing to bring into the fleet at the present time those buses that are relatively pollution-free, instead of just having them—giving them a free ride and saying, "Well from now until 1994 you don't have to do anything."

As they are acquiring new equipment—and I know in Nassau County, for example, we got the county executive to make application for 10 of these new buses. I know that in the Syracuse area, in their transit operations, they too have come along and have made application.

And I think that you should, by weight of your authority and power, let them know that you're going to be judging any waivers that may come down the line on the basis of what have they been doing in the interim and don't let them have that free ride.

I would suggest that we have to continue to increase the resources of that $35 million, for that's a small amount, but I think you'll find the support here on this committee with Senator Lautenberg and Senator Mikulski to do that.

And so just don't simply say to them, "No, we're going to throw this rule out." That's the pressure it takes because they are doing precious little to move it. So I would just share that with you.

Mr. REILLY. I appreciate that, Senator.

I think that it is probably reasonably well known that there is a very large interest and support for the use of alternative fuels in this administration, and that particularly in places where there are very large fleets and where there's a severe nonattainment problem, as there is in New York City, a need to proceed with some urgency to make those kinds of changes.

Senator D'AMATO. And many of our urban centers I think have the same kinds of problems.

Mr. REILLY. That's right. And we've seen some very successful experiments with—more than experiments, I guess—with implementation of a fairly simple program: the oxygenated fuel in Denver. That has had significant impact there, and we will continue to give a high priority to that.

STATUS OF REGION 2 OFFICE

Senator D'AMATO. I would hope you would keep in touch with us on that, your office to my office, as to how it relates.

On another level, it is rather disturbing. The news has come to me just rather recently. You know, New York is dependent upon its ground water to the extent of about 50 percent. In Long Island it's 100 percent. It's all source aquifer.

And although EPA has a relatively new office as it relates to ground water, we've been informed that the region—our region of New York and New Jersey that has relied upon this office to protect our groundwater resources, that this office in region 2 is slated for elimination.

I'm wondering if you—I'm not going to ask for an answer at this time, but I certainly would appreciate your review of this before this important office is closed. I think, if anything, we would need more in terms of resources in the area. But to close this at this point in time I'd suggest is unacceptable.

I will tell you, just from the area of Long Island in New York, we have made a very substantial commitment of building a model. This is just absolutely critical to us.

So if you have any knowledge as to it now I would certainly appreciate it. If not, I would certainly hope that you would communicate to Senator Lautenberg and myself with respect to this office being closed. If you could at the very least guarantee or give us a commitment that you will not close it until we've had an opportunity to further discuss this.

Mr. REILLY. Let me ask Rebecca Hanmer to respond to this specific question, Senator.

And I would just say that we give a very high priority to ground water. It's one of the issues that we've spent a good deal of time on in the last couple of months. There are a dozen or more statutes, as you know, that touch on that section of the ground water protection——

Senator D'AMATO. We would be the only, as I understand, region in the country that would not have this resource.

Ms. HANMER. The Administrator had talked earlier about our base funding problems. And in our New York Regional Office we have a particularly difficult problem with paying salaries. And it has essentially caused a freeze in the water program. We are unable to hire any new people essentially in that program. And we had to—the Regional Water Division Director felt he had to shift his available people to the more immediate work. So I hope it's just a temporary aberration caused by a salary shortfall in fiscal 1989.

FUNDING FOR REGIONAL OFFICES

Senator D'AMATO. If I might ask the Administrator if he would look at this and if it might take a redirection of some resources on a national level to see to it that that region gets additional funding. I honestly believe we require it, and I would appreciate it.

Mr. REILLY. I will look into that, Senator.

I think the more basic issue—I hadn't realized that it touched that program in that way—but the more basic issue is the problem of the constraint that is felt on hiring that affects several of our regions.

Senator D'AMATO. I trust so.

Mr. REILLY. I might ask Charles Grizzle to comment on that.

Senator MIKULSKI. Senator from New York, if you will yield, I'd like to have some clarification.

Are you talking about FTE ceilings or are you talking about funds available or are you talking about the wage competition, for example, for a New York salary as compared to a less expensive——

Mr. GRIZZLE. Senator, it's not a work-year ceiling issue; it is a funding issue. The pay raise that the Agency has absorbed in fiscal year 1989, coupled with special salary rates that we have increas-

ingly come to rely on in high cost areas like New York and San Francisco and Boston, we have principally exacerbated our funding problems in some of our regional offices. New York is probably as tight as any of them.

Some of the regional offices have hiring freezes now. The real problem will come at the beginning of fiscal year 1990 because we are now experiencing that down turn in hiring. We run the risk of missing the opportunity to hire bright young kids from the college campuses because we don't have the resources to make commitments to them. And so we will have a lag in hiring back up again as we move into fiscal year 1990.

We have projected about a $20 million shortfall currently in our salaries and expense account for fiscal year 1989. We are taking steps to tighten management so that we can cope with the shortfall. That's one example. And the Ground Water Program is a pretty clear example of what is going on in the Agency all across the country.

Senator D'AMATO. I'm not going to pursue it.

I would just make the statement that I believe that you should review this because I think it's unacceptable at this time. In your priorities—you've got to make them, obviously—in getting them from the region up there, I would hope you would examine and hope you would rethink this. This is not the time to be closing that facility. I just don't believe it is. I think the local people want to help the State.

Senator LAUTENBERG. We face a serious water shortage in the area and we're dependent on ground water supply.

Senator D'AMATO. We are totally—we have 3 million people who are totally—Nassau and Suffolk—totally dependent on ground water.

Mr. GRIZZLE. Senator, if I may, I don't think we would characterize it as a permanent cessation of any resources dedicated to groundwater in region 2, but, rather, a temporary shift of resources.

Senator D'AMATO. I hope you would reexamine it.

Madam Chair, do I have any more time?

Senator MIKULSKI. You've got about a minute.

OCEAN DUMPING

Senator D'AMATO. Well, if I might, in that period of time, we were devastated last year with the problem of the floatables coming up onto our beaches.

Now obviously, people take the ocean dumping and they say, "Well, that's serious." Senator Lautenberg has seen a national effort as it relates to seeing to it that we move out of the oceans, and that's fine. If we were out of the ocean as it relates to the dumping of sludge, I think we have a very appreciable problem to deal with. The matter of those floatables—and with the indulgence of the committee if I might have——

Senator MIKULSKI. We will take your question.

Senator D'AMATO. The hypodermics and all the medical waste, et cetera, that comes up on our beaches, it seems to me that there have been many who have commented that they feel that the chief

source, the prime source, comes from the combined sewer overflows that we have in many of our urban centers and in New York City in particular.

And so that means that there's a good likelihood that we're going to find these floatables and medical wastes and syringes and hypodermic needles, et cetera, coming up on, depending upon the characteristics of the wind, onto our beaches once again.

What is EPA doing to address this problem as it relates to encouraging our cities, and mandating them, to take the kind of steps necessary that are available—not just building new plants, but the kinds of systems that could be designed to begin to address this serious problem.

NEW YORK HARBOR

Mr. REILLY. I was going to comment first, Senator, on the things that we're doing in New York Harbor in that area, which I think are considerable, and perhaps I'll ask Rebecca Hanmer to talk about activities elsewhere, incentives, and the general problem.

We have a reasonably extensive plan that we expect to mount this summer with the Corps of Engineers which involves strategic placement of ships and booms to try to contain floatables in the areas of some of the maximum sources and concentrations. We've got a fairly broad plan to monitor and to try to anticipate movement of these things as they come down through the harbors and to collect some of them.

Whether it or any of the other efforts undertaken to try to respond to the whole horrifying problem we discovered last summer with medical waste on beaches is really going to be sufficient to deal with the volume of the stuff and the multiple sources of it, I'm not really prepared to say. But there is a fairly sophisticated plan that we can brief you on in some detail to deal with that area's problem; and perhaps, if it's successful, extend it elsewhere, use it as a model.

As far as giving a high priority to that, we are, as are some other Federal agencies. We're going to try to get the vehicles and some aircraft support, things of that sort from the Defense Department. So we are giving it a high priority and we'll do what we can with it.

Senator MIKULSKI. Does that answer your question, or do you want more?

Senator D'AMATO. Madam Chair, I'm very appreciative of your tolerance. Believe me, I am.

As it relates to bringing about the city undertaking specific actions, have you been engaged in that kind of dialogue, because unless we do that I think we're going to lose this. All of the efforts that you have—and I applaud them, Mr. Administrator—but they simply are not going to be sufficient to address those unless they are required to build the kind of systems so that they can; and I'm wondering.

Senator MIKULSKI. Could you answer very crisply, because we do have Senator Grassley and we did promise the Senators another round of questions. And we're now exceeding this time frame.

SEWER OVERFLOW

Ms. HANMER. In January we issued a combined sewer overflow strategy because it was clear that we had to deal with this issue. There are about 1,200 CSO systems in the country and about 15,000 to 20,000 of these types of sewers and we've asked the States to give us by January 1990 their permitting priorities and also their permitting plans.

We made a study over the winter of seven cities where we've got floatables problems. It appears that combined sewer overflows and storm sewers are the major part of the problem. And we're going to be doing some tests this spring with the intent of writing specific limits into those cities' permits.

Senator D'AMATO. I thank you, and I hope we have an opportunity for me to pursue this.

Senator MIKULSKI. The Chair has been apprised that the Administrator has to leave by 11:25 because of a meeting at the White House.

Senator LAUTENBERG. Is that the maximum time you've got available?

Mr. REILLY. I think, when it's with lunch with the President, I think I'd like to be on time. It's noon that I'm scheduled for.

Senator LAUTENBERG. I never have problems getting down there. I just step on the gas and blow the horn. [Laughter.]

Senator MIKULSKI. You're from New Jersey. [Laughter.]

We'll move quickly here.

Senator Grassley.

Senator GRASSLEY. Thank you, Madam Chair.

This is my first opportunity to be with Mr. Reilly.

Congratulations on your new position. And I suppose a meeting like this ought to give you an opportunity to respond to broad general policy. So I hope you'll forgive me if I'm going to ask some more narrow questions because I won't have the time to ask the broader questions that I also have to ask you.

SAFE DRINKING WATER ACT REGULATIONS

I have written to your Agency several times, even before you became Administrator, regarding this city in my State—or actually a small town called Nevada—that is having trouble with the Safe Drinking Water Act. And I would only suggest that this is probably exemplary of questions that a lot of Congressmen would ask you, so I'm not going to go into detail here today about this specific case, but I do have a few questions relating to this issue.

In response to a letter that I received from Ms. Hanmer, she indicated final regulations on radium standards would be out late in 1989 or early 1990. At this time last year EPA had informed me the regulations would be out in late 1988 with public hearings to be held by now.

Would you first respond to why the regulations have not been issued in the past year.

Mr. REILLY. Rebecca.

Ms. HANMER. That particular regulation itself has proved to cause some difficult internal discussions with regard to the limits on radium, but specifically it's been held up because of the public

controversy and the amount of work we have had to do to get the surface water treatment rule finished, and also the lead rule.

I share your priority for this particular regulation, and also am quite frustrated that we're behind. We'll do all we can to try to accelerate the schedule.

Senator GRASSLEY. I don't want to argue with you on your point because it may be perfectly legitimate, but I guess it does beg further question—whether or not the EPA's delay in publishing these regulations means these cities will not have to begin cleanup efforts until the final regulations are published?

Ms. HANMER. Several particular instances I think involve radium, and there is an existing standard, an existing drinking water standard which may be altered.

In a case like that we recommend that our regional office and the State work out a compliance plan with the city that takes into account whether or not the standard will be different. It gives them sufficient time.

But since the existing standard is in effect now they do have to work out a compliance plan. But the timetable for coming into compliance is something that can be negotiated with the State.

Senator GRASSLEY. I'm not sure that the people at the area office are that flexible. And I think that your approach would make it much easier for our community if your area offices would suggest that.

I think there is a legitimacy of problems if the final regulations are not published. You know, communities are in a very bad situation of not knowing whether the law has got to be met. They know that it does, but it seems like the very least we could do is let them know exactly what they have to do.

Let me ask whether or not Congress needs to extend certain standards set by the Safe Drinking Water Act to allow EPA to finish their rulemaking process.

Ms. HANMER. Well, certainly we are behind on the statute—we will not meet a lot of the statutory deadlines that are established in the Safe Drinking Water Act of 1986. We are already in litigation and working out consent agreements on several of those. That's just a fact. That's where we are. I'll be glad to submit a comprehensive report.

[The information follows:]

DRINKING WATER REGULATIONS

The National Primary Drinking Water Regulations (NPDWRs) which have been completed are as follows:

- Fluoride on April 2, 1986 and eight volatile organic chemicals (VOCs) on July 8, 1987, essentially meeting the June 19, 1987 deadline for nine contaminants.
- The list of contaminants for substitution on the list of 83 was proposed July 8, 1987, essentially meeting the June 19, 1987 deadline.
- A final list of 53 contaminants selected as future regulatory candidates was published on January 22, 1988 to meet a January 1988 deadline.
- Unregulated contaminant monitoring requirements were promulgated on July 8, 1987, as part of the VOC rule, to meet the December 19, 1987 deadline.
- Public notification requirements, including those for lead, were promulgated on October 26, 1987, only slightly more than a month after the September 19, 1987 deadline for general requirements and ahead of the June 19, 1988 deadline for lead.

The status of NPDWRs currently under development are as follows:

1. The Surface Water Treatment Rule [SWTR) and Coliform Rule are being developed together for promulgation this June (pursuant to consent decree). The SWTR includes filtration and disinfection requirements for surface water supplies and standards for five other contaminants. The filtration requirements were due in December 1987 and the disinfection requirements are due this June. The six standards included in these two rules are part of the 40 that were due June 19, 1988.

2. Standards for 38 inorganic and synthetic-organic (IOC1SOC) contaminants are due for EPA promulgation at the end of 1990 (pursuant to consent decree), roughly 2½ years behind the Safe Drinking Water Act (SDWA) deadline of June 1988 for 40 contaminant NPDWRs and 18 months behind the ultimate SDWA 83-contaminant deadline of June 1989.

3. Lead and Copper Standards are scheduled for Winter fiscal year 1990 promulgation. This misses the statutory 83-contaminant deadline of June 1989 by roughly 9 months.

4. Standards for 23 remaining IOC/SOC contaminants (that will round out the required 83 regulated contaminants) are scheduled for mid-1991, or approximately 2 years beyond the statutory deadline.

5. Standards for 5 radionuclides are scheduled for promulgation at the end of 1991, or 2½ years behind the 83-contaminant deadline of June 1989.

6. Standards for disinfectant chemicals and disinfection by-products are being developed together with a disinfection treatment rule for ground water systems (disinfection requirements for surface-water-source systems are part of the Surface Water Treatment Rule, above) for promulgation in early 1992. These standards are for chemicals listed by EPA in 1988, pursuant to SDWA mandates, and are due in 1991. Because regulation of disinfectants and their inadvertent by-products is closely related to the disinfection treatment process, the separately-mandated treatment rule will be developed in parallel. This linkage has the effect of delaying the disinfection treatment requirements for ground-water systems mandated for June 1989.

RADIUM STANDARDS

Senator GRASSLEY. Let's assume in this and other communities that the area offices are still as strict as they have indicated so far and that these communities have to move ahead.

Your letter indicated that standards for handling radium waste will be out in late 1989. If cities are to proceed with cleanup, are we risking serious problems with the handling of the waste?

Ms. HANMER. I'm afraid you're catching me at something I don't remember. This is radium waste or the drinking water regulation?

Senator GRASSLEY. This specific city has to put in a filter process to get the radium out. And so they're going to have the accumulation of waste that has to be disposed of. And those regulations won't be out in 1989. So, if we go ahead and make them take the waste out, what sort of serious problems do we have with the handling of the waste?

Ms. HANMER. Well as I said, we have indicated to the regional office that they should work out a compliance plan. Clearly if there is good reason for us to change the standards and the change of that standard would no longer require that level of treatment, then that's an issue that ought to be worked out now as far as their overall compliance plans.

It's difficult in advance of promulgating the regulation, as you know, to guarantee that the new regulation will come out at a specific level. But to me the compliance plan that is worked out with these individual cities and the states is the best way to handle those kinds of issues.

And I will be glad to give you an update report that's more specific on where we stand in negotiating with some of these communities and we can do that today.

[The information follows:]

COMPLIANCE PLAN

Iowa has approximately 45 public drinking water systems in violation of the Maximum Contaminant Level (MCL) of 5.0 picocuries per liter (pCi/1) for combined radium 226 and 228. Aware of this situation, EPA and the Iowa Department of Natural Resources (IDNR) are negotiating with some of these public water systems to bring them into compliance.

Specifically, Nevada, Iowa, a community serving 5,912 persons, is a significant noncomplier as a result of its violation of the current MCL for combined radium 226 and 228. In Federal fiscal years 1985, 1986 and 1987, the city had levels of 14.57, 16.7 and 12.2 pCi/1, respectively. Further, data obtained from the IDNR indicate that the city's radium 226 levels average 7.5 pCi/1 and have been increasing in recent years. Radium 228 levels average 4.2 pCi/1.

The city of Nevada has been placed on a compliance schedule by the State of Iowa as a condition of its operating permit. I understand that this schedule requires the city to begin any needed construction by September 1989 and to achieve final compliance with the current radium regulation by December 1990. I also understand that the city has chosen to construct a new well as the means of achieving compliance. Further, the State of Iowa has informed my staff that the city of Nevada has received substantial Federal assistance (in the form of a HUD Community Development Block Grant) for this project and that the new well has essentially been completed. We, therefore, consider the case of Nevada to be resolved.

In the case of the other communities in violation of the radium MCL, EPA recognizes their reluctance to expend resources that may not be required should the current standard be relaxed. Because of this, EPA has attempted to prioritize its enforcement of the radium standard as follows:

(1) Public water systems with a combined radium level greater than 10 pCi/1;
(2) Systems with either radium 226 or 228 between 5 and 10 pCi/1; and
(3) Systems with a combined radium level greater than 5 pCi/1.

The ranking is based on what EPA currently believes the new standard is most likely to be. Systems with a combined level greater than 10 pCi/1 are the highest enforcement priority and ones which, we believe, will have to install some type of treatment even if the standard is relaxed.

EPA recognizes the need to be somewhat flexible while, at the same time, enforcing the current standard. We are therefore encouraging the Regions and states to work with systems in violation to design appropriate compliance schedules. The schedules may include engineering studies and development of options for meeting the radium standards and, in the cases of the "worst" violations, actual construction or implementation of remedial measures. For example, a system may identify an alternative that would reduce the radium level below the standard likely to be proposed. Ideally, this alternative should allow upgrading to meet a more stringent standard later, should one be promulgated. We would work with the state to allow construction of this alternative under these circumstances with the understanding that the system would have to upgrade if and when a more stringent standard is issued.

FORMULATION OF REGULATIONS

Senator GRASSLEY. Finally, I would like to comment on what appears to be an inconsistency in the way that these regulations have been formulated. I'm asking this question not to be critical of your Agency, for I understand that this is a congressionally mandated policy, what I'm referring to is how the Agency makes its determination on the feasibility of drinking water standards.

Congress has directed the EPA to use large systems with relatively clean water to determine economic impact. The problem is that most of the 500 cities exceeding current radium standards are small communities. Does Congress need to reconsider this policy as far as determining the feasibility of implementing environmental standards? Would it be more realistic for the approach to look at the cost of cleanups just within smaller communities?

Ms. HANMER. The concern that the public has over being assured about safe drinking water I think would make it very difficult for

us to change the basis on which we set the general national standard, that is, the cleanest of the clean.

However, the law does provide a limited opportunity for communities that are adversely affected and who can demonstrate that within that community the drinking water is safe to have an exemption capability. And I really think we ought to examine that capability for dealing with particularly impacted communities.

And in the case of these pollutants, of course, we're talking about naturally-occurring contamination; we're not talking about contamination from waste sources. And in those areas I think we need to look at whether or not the flexibility we already have in the law can be operated effectively before we change the standard.

Senator GRASSLEY. I think we need some help doing that because I think that we are once again in a position where maybe you mean to be flexible and to be very workable and to try to tailor the needs of individual communities, but I'm not sure it comes out that way in the final analysis.

If that is your intent, I applaud you for it, but I guess in the process that it may not be working out the way you intended. I would please ask you to look again to see if it comes out in the end of the administrative pipeline the way you intend.

I would like to switch gears. I think this would be for you, Mr. Reilly.

CONSTRUCTION OF EPA FACILITY

My understanding is that the General Services Administration is currently planning to build a facility to house the EPA at the Navy Yard. I'd like to have you update me on the progress of this building and any concerns you might have regarding this facility—assuming this has not already been asked.

Mr. REILLY. It has not.

Senator GRASSLEY. Has it been asked?

Mr. REILLY. No, sir; that is correct. There has been a proposal that the Government construct a facility in a building—at the Southeast Federal facility for EPA, and we have a number of concerns about that: one is the location.

As someone put it to me the other day when I was about to begin a press review, they said I see EPA is proposing to be moved even farther out of the mainstream than it is right now.

And there is a long history and many people at the Agency are familiar with it of needing space but not really receiving it: a building that was not constructed as office space, a building that has evolved into an indoor air pollution problem that has caused us to have to move some of our employees into rented space nearby, a building that's not large enough and that in many ways doesn't have the facilities for the kind of computers, communications, data management that we require.

The building that's proposed would itself be too small, it wouldn't accommodate the work force we now have. It is not a building that in a number of other respects is in our view up to standard or would set the kind of example that it seems to us the Environmental Protection Agency building should set. Building a

Federal building for a major Federal agency is an infrequent thing. I think there hasn't been one constructed in 10 or 12 years.

So this is a very important statement and we have a lot of concerns about the way this has been developed and have some specific ideas on how to reduce the budgetary impact by moving to a lease purchase as opposed to a construction purchase approach.

And we had a meeting scheduled yesterday that had to be cancelled. I was going to meet with the Acting Administrator of GSA and try to work out some of those problems. But they are very serious concerns and the deadline is pressing down on us.

We have a lease that expires in 1992. There's really no prospect of between now and that period we could have a new building constructed for us. So it's time to get seriously involved with that and we appreciate your interest in that.

Senator GRASSLEY. I won't ask for more time, but I would like to have an answer in writing on the EPA's role in the implementation of the wetlands protection policy.

Mr. REILLY. We'll be glad to provide that.

Senator MIKULSKI. We all want that, Senator Grassley. Without objection, that's going to be one of your questions.

[The information follows:]

WETLANDS PROTECTION POLICY

EPA's Wetlands Action Plan (January 1989) provides a good starting point to describe the types of actions EPA is best suited to take to implement the recommendations of the National Wetlands Policy Forum. The actions fall within the following seven categories:

- Wetlands planning initiative;
- Mechanisms to increase state/tribal/local roles in wetlands protection;
- Section 404 regulatory program—in particular, enforcement, 404 guidelines and wetlands jurisdiction/delineation;
- Interagency wetlands mitigation policy (both 404 and other agency actions);
- Information/education;
- Cumulative impacts; and
- Wetlands restoration.

EPA has joint responsibility with the Corps of Engineers to improve the effectiveness and efficiency of the Clean Water Act Section 404 program. EPA's work to support this program includes policy development and clarification, enforcement, permit reviews, jurisdictional calls and advance identification of particularly vulnerable or valuable wetland resources. EPA has wetlands research underway to support the Section 404 program and other wetlands programs.

Clearly, the task of wetlands protection cannot be accomplished by EPA alone. EPA is undertaking a variety of other actions to support and encourage efforts by other agencies and by the private sector as well. EPA is developing guidance, technical support mechanisms and limited financial assistance to support the nonregulatory and regulatory wetlands protection efforts of states. EPA is working to ensure that its own environmental programs (such as the traditional water quality programs and Superfund) factor wetlands protection into these decisions. EPA is also working with other Federal agencies to identify projects and actions to support wetlands protection and restoration goals. Finally, EPA is developing educational information to increase awareness of wetland functions and programs available for protection.

Senator MIKULSKI. As to the building, we're very mindful of EPA's problem and intend to work very closely on this.

ORGANIZATION OF QUESTIONS

Here's the way we're going to run the rest of the meeting: You have to leave and Senator Nickles just came, he has some ques-

tions; we're going to turn it over and ask those who have a second round—protecting Senator Nickles' right to 5 minutes, I'm going to reserve my time mainly for wrapup, rather than exercise my prerogative as the Chair, to accommodate the members.

Senator D'AMATO. I'll pass, Madam Chair. You've been very gracious.

Senator LAUTENBERG. Thank you very much, Senator Mikulski, you're being very fair and we'll try to accommodate.

RIGHT-TO-KNOW ISSUE

Real quickly, Mr. Reilly, on the right-to-know issue I think emergency planning and emissions inventory work should be a top EPA priority and I would ask you to examine the projected 1990 budget which has only $22 million for the right-to-know review. In my view, it's not enough to get the job done.

NINETY-DAY REVIEW OF SUPERFUND

I want to ask you, you were going to conduct a 90-day review on the Superfund Program. Do you have a quick response on where that stands?

Mr. REILLY. That is moving along very well. We have done the literature search for the various reports. We've taken them apart, looked at the criticisms, recommendations——

Senator LAUTENBERG. When would you expect this?

Mr. REILLY. We expect to complete this in May and I would hope to be able to share it with you in June.

There has been a very extensive process of consultation in all of this and I believe your staff has been involved and been contacted on that and we've tried to do a pretty thorough job on it.

Senator LAUTENBERG. OK. Thorough and prompt is desirable obviously and we would ask you to try to move that along.

CONTINGENCY PLANS

Under section 311(j) of Clean Water, EPA has the authority to set criteria for State and local oil spill contingency plans.

Both you and I visited Valdez, we were separated, I think, by a day in time, and that really opened the world's eyes, particularly American eyes, to the devastation that something like that creates and it may change our whole attitude on energy use, energy efficiency, and our environmental responsibility.

Has EPA set criteria for State and local oil spill contingency plans?

Mr. REILLY. Criteria for response to—yes.

Ms. HANMER. I think that's Jon.

Mr. CANNON. We do have criteria and we also conduct inspections of some percentage of facilities each year that we have jurisdiction over.

We don't have criteria because we don't have jurisdiction over transportation-related activities. That's logically the Coast Guard.

Senator LAUTENBERG. Good.

But you do have a plan to review those oil spill contingency plans?

Mr. CANNON. Review them in connection with the inspections we conduct.

And I want to be accurate about this: we don't conduct inspections at every facility that's covered; we conduct inspections at some small percentage of the facilities.

REVIEW OF NATIONWIDE CONTINGENCY PLANS

Senator LAUTENBERG. The President has asked for a review of all contingency plans nationwide, and if we don't have fairly precise criteria on this what's the review going to be based on?

Mr. REILLY. We have that as a concern on our plate right now. We will ensure the National Response Team is going to have the oversight for collecting the information. We're going to report to the President, I think, in 30 days on just what we would expect to put in those reviews.

There are a lot of questions about the kind of assumptions to make, frankly, in one of those reports in assessing the adequacy of a contingency plan and some difference of opinion, I think, on whether you should assume and prepare for, with all the cost implications that it has, catastrophic accidents or assume something more in the realm of likelihood or possibility, probability.

We haven't sorted that out yet but I think where your question is going—and I would agree with it—that the likelihood is that we will find a totally unreal climate of contingency planning emergency response for oil spills.

We found it in a place that had a very high visibility and a high level attention over the years, Prince William Sound, and I would be surprised if we don't find it in many other places as well.

Senator LAUTENBERG. The fact that it had this visibility and the devastation that came as a result of it I think has shocked the sensibilities of everybody who cares about the world we live in. And it's going to be changing things very rapidly.

R&D EFFORTS

Are there R&D efforts at EPA to develop better methods of cleaning up oil spills?

Mr. BRETTHAUER. We are assembling—before I should say "No."

Senator Lautenberg. Yes; it's a yes or no kind of thing there. [Laughter.]

If it's a half no or a half yes, all right.

Mr. BRETTHAUER. We are assembling a team within the next week with experts in mitigation measures from all over the United States as well as the world to take a look at the current state of technology and to let us know what is the status of our possible options of that technology.

Senator LAUTENBERG. Does the 1990 budget proposal include any funds?

Mr. BRETTHAUER. No; it does not.

Senator LAUTENBERG. Thank you very much.

Madam Chair, I have additional questions I would like to submit for the record. The one thing we have established is that whatever thinking we had in place was insufficient to deal with the reality.

Senator MIKULSKI. We absolutely agree with you, Senator Lautenberg. You chair the subcommittee on the Coast Guard—we look forward to working with you on that.

In addition to the questions you asked on Superfund, there is very keen interest in the whole subcommittee. And, of course, we'll probably be marking up, after the House in June, our appropriations bill. We really urge you to move with that administrative review.

This is the man who chairs the oversight committee and is a very keen expert on this, and we're going to have some very tough decisions to make. We want to make sure there is good policy as well as a good bottom line. And he needs that review so we can work with him and make sure our resources are appropriate.

Mr. REILLY. We are right on time with that review. It's moving along and it is reasonably comprehensive, and it will respond to the main points of concern with respect to Superfund. And we'll get it up to you just as soon as it's ready.

Senator MIKULSKI. Senator Nickles.

Senator NICKLES. Madam Chair, thank you.

Mr. Reilly, it is a pleasure having you before the committee. I also appreciate your indulgence. I understand you've been here a long time. My staff has called me, "Well, they're almost through; no, they're not." So I know you've had a long period of time both yesterday and today.

CONSTRUCTION OF NEW EPA FACILITY

Senator Grassley mentioned the possibility of a new building for an EPA headquarters. What is the estimated cost of that?

Mr. GRIZZLE. Senator, GSA has set aside $221 million in their 1990 budget in the public buildings fund. We estimate that to be somewhere in the neighborhood of $100 to $120 million less than what we would need.

Senator NICKLES. If you add the two together the possibility would be what?

Mr. GRIZZLE. About $340 million.

Senator NICKLES. I'd be interested in receiving some information on the specifications on what your lease cost payments are now.

Mr. GRIZZLE. The lease costs currently are pretty reasonable for the D.C. metropolitan area. Our lease is about $12 a square foot. In 1992 when the lease expires, if we're still not ready to move out, we anticipate it will be up in the neighborhood of $28 to $32 a square foot.

Senator NICKLES. I hope that your estimate is not becoming a self-fulfilling prophecy that will greatly increase the cost not only to your administration but also in Government buildings as well.

Anyway, I would appreciate some information on the building, the estimated expenses, the reasons why you think it should be $100 million more than GSA has budgeted, and also your present costs for occupation.

[The information follows:]

NEW FACILITY

Last fall Congress provided the General Services Administration (GSA) authorization to build up to 1.4 million square feet of consolidated space in Washington, D.C. The Environmental Protection Agency (EPA) was pleased with this action which finally enabled the Agency to acquire a quality, consolidated headquarters facility.

GSA is now proposing to construct a building of 1.1 million square feet. We estimate that we will require 1.4 million square feet of space to house existing staff and accommodate a three percent per annum growth rate through 1995. $226 million of the Public Building Fund has been allocated for this purpose. Based on our requirements, the facility is underfunded by over $100 million.

Approximately half of the estimated shortfall is attributable to the difference in size requirement and the balance is ascribed to building to GSA standard quality versus addressing our specific need. EPA needs to be responsive to our mission and our employees. This includes many critical features previously identified in our technical specifications, such as adequate heating, ventilating and air conditioning, necessary wire management, sufficient power supply and basic amenities including an employee cafeteria, fitness area and day care center.

When EPA's leases begin to expire in September 1992, new market rates will be applied to our nearly 1.1 million square feet of space. The renegotiated rate could be as much as $30.00 per square foot, an increase of approximately $16.00, for a total increase of $15 million in Agency lease costs.

CLEAN LAKES PROGRAM

Senator NICKLES. Mr. Administrator, does EPA have any remaining funds in the Clean Lakes Program 1989 appropriation?

Mr. GRIZZLE. It was reduced to $2 million in the fiscal year 1990 request, I believe.

Senator NICKLES. What do you have in 1989?

Ms. HANMER. We have most of the money unexpended. Within the next month we will probably make decisions that will obligate all but about $2.8 million of the money that's available.

Senator NICKLES. For 1989?

Ms. HANMER. That's correct.

Senator NICKLES. I would appreciate your serious consideration of a problem that we have in Oklahoma. It's in the Gaines Creek area in eastern Oklahoma that feeds into Lake Eufaula.

These are some abandoned mines, coal mines, that we're finding create some acidic flow from those mines into this creek and then into Lake Eufaula. Lake Eufaula is a beautiful lake. It serves 25 water systems in eastern Oklahoma.

A lot of the communities are quite concerned, as I am, about the quality of water. And so I would appreciate it if you could help us with that program. My staff has been trying to analyze what program we could best use to assist in that area. And the Clean Lakes Program has arisen a couple of times in discussions as the most likely. We would appreciate your consideration and cooperation with us in trying to solve a very significant problem.

In next year's budget you've requested—what—$2 million for that program?

Ms. HANMER. Yes.

Senator NICKLES. Do you feel that would be sufficient funding?

Ms. HANMER. Yes, we do, based on the level of interest we have in the remaining work we thought that $2 million would be sufficient.

Senator NICKLES. I would like for you again to take a closer look at this Oklahoma project and if it could be done with 1989 funds

that would be great; and, if not, I would hope that we would have available funding in 1990.

PETROLEUM UNDERGROUND STORAGE TANKS

Mr. Reilly, a quick question on the petroleum underground storage tanks:

I've contacted your office, and I suspect some others have too, concerning the potential cost of liability insurance to many gasoline stations, particularly those owned by smaller firms, not owned by the majors—I don't know what percentage that is, but it's probably the majority of the gasoline stations in the country, or at least in my State.

Are States in the process of trying to come up with an insurance fund or a pool? There is legislation now pending before the Oklahoma Legislature. We hope to have that finished in the next 30 days or so. I believe 25 States have some type of a fund.

I have requested EPA to give us a 6-month delay in implementing the bonding requirements, et cetera, to give us time to set up this fund so that we could not be putting so many of these small stations out of existence.

Is an extension a possibility? Could that happen?

Mr. Reilly. I'm very sympathetic to the problem you raise, Senator.

For small gas station operators obviously this is an endemic problem that often arises because of environmental protection obligations that are responses to serious problems.

We are quite aware that these tanks, whether they are small or otherwise, have been contributing to it; but also the response is difficult. And so it is a particularly difficult problem if they can't get insurance and can't afford it if they do. We will look at that and get back to you.

Senator Nickles. I appreciate that.

Again, keep in mind we're not asking for a repeal. We're asking for a little more time for the States to set up a fund.

Mr. Reilly. I understand.

Senator Nickles. And again, to give you some emphasis, in a lot of rural communities they may only have one gasoline station.

Mr. Reilly. I understand.

Senator Nickles. If you eliminate that you're not only putting a few people out of work but you're causing a great deal of inconvenience for the people in that area. And a lot of the rural areas are really going through difficult times now.

They used to say, "Well, if they lose their post office they're no longer a community"; but if they lose their gas station, then that probably is an accurate statement.

ILLINOIS RIVER

One additional question—and maybe not so much a question as a comment because I would like for you to be aware of a problem that each of your predecessors over the last 2 years became quite involved with, and that's the Illinois River.

The Illinois River in the State of Oklahoma is one of our most pristine rivers. It's our largest tourism attraction as far as any of our rivers.

We now have a dispute going with the State of—not so much with the State of Arkansas as with the city of Fayetteville. The city of Fayetteville has applied for and received from EPA a split-flow discharge where half their discharge now goes through a creek which feeds into the Illinois River. Again, this being our scenic river, this being the river that we have most of our tourism, float trips, et cetera—it's a beautiful river—there is a great deal of consternation and concern by Oklahomans and myself. I have floated the river several times and I really don't want that discharge to be going into the Illinois River.

EPA had granted that permit. I have asked and requested your predecessors to not approve the application by Fayetteville for the split-flow discharge. It's in the courts right now.

I want you to be aware of it because we are very concerned. We've got hundreds of thousands of people that are very concerned. We want that discharge not to go into the Illinois River and we will take whatever actions—through court action or legislative action—to see to it that won't happen. I wanted you to be aware of it, and I will be contacting you about it in the future.

I know that you haven't had time to do homework on that issue, but it is one that we'll be discussing with you in the future.

Mr. REILLY. Thank you, Senator.

Senator NICKLES. Thank you very much.

Madam Chair, thank you.

Senator MIKULSKI. Thank you.

Mr. Reilly, there are obviously more questions than there is time, both from my colleagues here and myself. I'm going to give you three, two that are interrelated. One is asbestos in the schools and the other is pesticides and then one about personnel issues.

ASBESTOS-IN-SCHOOLS FUNDING

You're not requesting any funds for the asbestos-in-school loans and grants programs. In the current fiscal year, $45 million is being expended for these programs. According to the information we've gotten from the Asbestos in Schools Coalition, who wrote me a letter, there is incredible demand. And I could go through the facts:

Between fiscal years 1984 and 1988, over 7,000 school districts requested nearly $1 billion for 12,000 projects. For that request EPA provided only $156 million for about 1,200 school districts for about 1,700 projects.

I am mystified as to why the Agency has refused year after year to put funds in the budget for asbestos loans and grants. Could you tell me what your request to OMB was and what your plans are?

The Washington Post and our phones are ringing over the lead in drinking water. It happens to be in Prince Georges County; it happens to be in Montgomery County. I don't know if the drinking water or school water fountains are safe, but our parents now wonder.

They wonder what happens to their children in school. They also worry about drugs, they're worried about guns, they're worried about asbestos, they're worried about drinking water. And then we come out with a solution and then there's no money. Could you tell us where we are with asbestos?

And then could you comment on the lead in the drinking water?

Mr. REILLY. This is the water cooler, probably.

Senator MIKULSKI. Yes; parents now feel the schools are the new Superfund sites.

Mr. REILLY. We have not requested, and I gather the previous administration had not requested, funding for loans and grants programs.

Senator, we have asked for $3 million more for the asbestos-in-buildings effort. I don't know exactly what or whether we have those numbers here as to what we may have requested from OMB but I'll ask Mr. Kimm to respond on this program.

Mr. KIMM. Part of the problem—in terms of the Asbestos in School Program—essentially is that it has been historically viewed as a local problem, that the control strategy is to leave asbestos in place and only remove those portions that need to be removed for fear of creating higher exposure.

The decision not to fund this program by the administration in previous years has been a higher level tradeoff in terms of budget requirements.

Senator MIKULSKI. I find that answer unacceptable and I'll tell you why:

FEDERAL MANDATES

If you travel around Maryland, as with other States, they will tell you that they've had it with Federal mandates and no Federal resources. If it's a local problem, then we shouldn't pass a Federal law.

Now we happened to think that it was a national problem and had to be addressed nationally. Once we do a mandate, we should have resources to meet the mandate, otherwise the President should have vetoed it if there was this strong philosophical belief about the commitment of local government.

Here we have a Federal mandate, a Federal mandate to Governors and to mayors and county officials and so on.

And I really would insist that when you go back to the drawing boards that someone should really examine this and let's not play games. I mean if we're going to have Federal mandates, then there should be Federal resources.

I feel very strongly about this, Mr. Administrator. Again, if you feel that strongly then the administration should come with a proposal that funds that. Because we have created an expectation and we have created a role and if the administration feels that it is all local or primarily local then it should introduce legislation here. I happen to think you know what would happen to that. And, therefore, we cloud this area.

Now I know that you've got to go have lunch with our President and don't let me keep you, but I want to come to one last question:

EPA HIRING OF WOMEN AND MINORITIES

There are many questions but this goes to employment in EPA, it really goes to all of the agencies within the subcommittee. And my question is the employment of women and minorities within the Agency. And I know your own personal commitment to this issue.

And we would encourage you to work more. Although approximately one-half of your work force is comprised of women, the Agency reported at last year's hearing that only 11 percent of all senior executives serving above GS–15 were women. That's a very low number.

Also, when one looks at the participation in this hearing, it is obvious that the participation of minorities at the senior management level is not present. We understand that's a national problem in technical areas, but there's not a national problem necessarily in broad-based management areas and we would really encourage this Agency, as well as NASA, the National Science Foundation, and the others to examine that. We understand that's also in keeping with the President's views and so on.

Do you want to comment on that?

Mr. REILLY. Yes. The President has encouraged high priority for hiring of women and minorities across the board in senior and in other positions. I am very strongly committed to that. I think that the Agency itself has a younger work force than those of many other Federal agencies we've talked to which would make our problem simple. We ought to be able to do better in this area.

Now I'm surprised if that number is lower than it is for other agencies in the Federal Government; it sounds disturbing low to me, 11 percent. I'm not sure there is justification or an excuse for it and we will promise to do better on that.

Mr. GRIZZLE. Senator, if I could. Obviously we can never do enough and we can never stop trying but we have made some progress from last year's figures, we are up to 16 percent now from 11 percent, 41 of our senior executives out of 246 on board are either women or minorities. We feel we are making better strides in hiring and promotion of women than we are minorities.

We have a goal, an Agency-wide goal of 52 percent of our permanent hires are to be women and minorities. We exceeded that last year with 63.4 percent. It's not enough just to worry about the hiring, we recognize that we must have programs along the employment chain to give perhaps underrepresented classes of women and minorities, if you will, more of an opportunity.

EPA CAREER DEVELOPMENT PROGRAMS

We have recently instituted what we call our Greater Leadership Opportunities Program to provide training at the nonsupervisory level, principally directed at women and minorities, to move them up into the management chain. We're getting ready to institute our Agency-wide midlevel career development program. Forty percent of our current SES development class—9 of the 22—are either women or minorities. We are concerned—we believe that we have programs and are putting them in place to address our problems.

We have a new Agency-wide intern program. We have 20 finalists that we have just recruited from college campuses and better than one-half of those finalists are women and minorities.

Senator MIKULSKI. I think that's great.

And I think one of the problems you face goes back to junior high schools. If you were here for the testimony of the National Science Foundation, you would see where the interest drops off.

Again, not to keep you, but I went out to Stanford to inspect their new accelerator and there met with Nobel Prize winners and Dr. Stan Rye. And I thought they were going to hit me up for more research money. Instead they—Nobel Prize winners and our premier astronaut—talked to me about junior high school science teachers in the urban schools to encourage people to stay in science.

It is a subject of enormous concern. I think it's a national problem. And we look forward to talking to you about this. We are impressed with your strides. There are only so many people, though, you can recruit from, and we need to broaden the base.

NATIONAL SERVICE PROGRAMS

I happen to think that one of the areas to do that is through national service in which we have people actually doing exciting things at a very young level.

And this is not the time for you or I to go into it, but under an idea I have modeled, we would have people be able to reduce their student debt by working in programs. Now those high-tech kids coming out of Hopkins could be running Saturday scholar programs in urban schools, could be running science fairs on weekends with Mayor Schroeder for the magnet schools in Prince George's County, they could be working with Bill Baker to do conservation programs.

And kids are like adults, nobody gets excited about reading a memo, that's not why you're an environmentalist; you're an environmentalist because you're out there and that's what keeps you excited, not this kind of stuff.

Senator MIKULSKI. You're an urban planner; I'm a social worker. We're from the same background; we want to be out in the field. And that's where you get people excited, out in the field.

And we would hope with the President's idea on national service it's there, recruitment using some of the people that we are graduating and that could go on to expand this. We have to expand the interest in science and technology. And I think if you plant a tree and see it through the end, you're going to be interested in its life.

Mr. GRIZZLE. We feel very fortunate, Senator, the Environmental Protection Agency is still a desirable place for bright young people to want to go to work. We don't have any recruitment problems now, but we all understand that our base is going to continue to shrink and the competition for recruitment is going to be tougher and tougher.

Senator MIKULSKI. Demography is destiny. And we're heading to a work force shortage.

Well, tell the President I said "Hi." [Laughter.]

Mr. REILLY. We appreciate your accommodating us.

Senator MIKULSKI. We're going to—let me conclude the EPA part and we're going to move to the Council on Environmental Quality.

COUNCIL ON ENVIRONMENTAL QUALITY

STATEMENT OF ALAN HILL, CHAIRMAN

ACCOMPANIED BY:

JACQUELINE SCHAFER, MEMBER

DINAH BEAR, GENERAL COUNSEL

INTRODUCTION OF WITNESSES

Senator MIKULSKI. We want to welcome to the witness table the Council on Environmental Quality, Mr. Alan Hill, the Chairman of it; Ms. Jacqueline Schafer, a member of the Council; Ms. Dinah Bear, the General Counsel.

And I note that the Council is incomplete as Dr. Mills is no longer with you. I note that you're requesting a budget of $861,000, a modest increase of $11,000. We look forward to hearing your testimony.

Mr. Hill, why don't you just go ahead.

Mr. HILL. I have submitted a brief statement to the committee, and if that could be included in the record, I won't have to read it.

Senator MIKULSKI. I'll ask unanimous consent that we do that.

[The statement follows:]

STATEMENT OF A. ALAN HILL

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to discuss with you the fiscal year 1990 Budget Request for the Council on Environmental Quality (CEQ) and the Office of Environmental Quality (OEQ). With me today is the one other current Member of the Council, Ms. Jacqueline E. Schafer. Dr. William L. Mills, our third Member, recently left to take a teaching position in London. I would also like to introduce the General Counsel, Miss Dinah Bear.

For fiscal year 1990, CEQ/OEQ has requested an appropriation of $861,000. This represents an increase of $11,000 or 1.3 percent above the budget level authorized by Congress for fiscal year 1989 ($850,000). The increase in the funding level is due primarily to increased personnel costs, including the requirements of the civilian pay increase and associated benefits. The authorized FTE level of 13 remains unchanged from the previous year.

A further adjustment is necessary to account for an increase in travel anticipated for fiscal year 1990. Specifically, increased foreign travel is expected because of CEQ's role in international environmental matters, including involvement with the United Nations Environment Programme.

The funding for all other budget categories remains at the fiscal year 1989 level.

As indicated in our full budget submission, this is not a request for additional funding to implement new programs. This proposed appropriation level will enable CEQ/OEQ to fulfill its statutory objectives, yet was developed with deficit reduction objectives in mind.

This concludes my prepared statement. Member Schafer and I will be happy to answer any questions you may have regarding the activities of the Council or the fiscal year 1990 Budget Request.

Senator MIKULSKI. I don't know if there is any particular point that you want to make first.

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Mr. HILL. Well I should point out, as you noted, Dr. Mills has left, Ms. Schafer and I will be leaving at the time the President makes the decision with regard to the future of the Council, first; and, second, selects those he wishes to serve.

Senator MIKULSKI. I see. Well we want to thank you for the job you've done. We feel that your statutory mandates of environmental policy analysis, coordination, and data acquisition are very important and in many ways, not to be contradictory to EPA, but you offer a different area and an input out of the day-to-day crises.

ENVIRONMENTAL QUALITY REPORTS

We want to turn now to the annual environmental report.

Ms. Schafer, you told me in the 1988 hearings that the 1986 report would be published late fall of 1987. We went all around that last year. What happened? We now see that it was published in October, about a year and a half after it was planned. Are you that overwhelmed with work or what's the deal here?

Ms. SCHAFER. We do have limited resources in this area. We lost two technical staff people in early 1987—I'm sorry, early 1988, who worked on the 1986 report in 1987, so it was pretty much left to me to do all of the editing.

In the meantime, I was producing, as the Chairman of the Task Force on Outdoor Recreation, another report, which I brought with me, which took priority. As soon as that——

Senator MIKULSKI. That's not your statutory mandate, Ms. Schafer. I mean, outdoor recreation is very important. But this Council has a statutory mandate, a mandate to present to the American people an annual environmental quality report in a timely manner. It didn't happen last year and it didn't happen the year before.

Now do we need this report or should it not be a priority? Should we zero this out? What do you think?

If we don't have the reports why do we need CEQ?

Mr. HILL. There are many other activities at the Office that are essential. When the law was established in 1969, there was a need for a report—this predated the EPA. The EPA does issue a multitude of reports on air quality and water quality, et cetera. It is a fair question as to whether the Council should be required to produce a continuing annual report rather than specific reports on specific problems.

I would note that the environmental community's project blueprint report that was given to the President indicated that the activity of the annual report is one of the lesser priority items of the activities of the Council.

CEQ PRIORITIES

Senator MIKULSKI. And what are the priority items other than recreation?

Mr. HILL. Oversight of the National Environmental Policy Act implementation by Federal agencies.

Senator MIKULSKI. And how did you do that?

Mr. HILL. We worked through the General Counsel's Office. We work with Federal agencies on their implementing regulations.

Senator MIKULSKI. Give me clear examples of how you did that.

Mr. HILL. For instance, we are working with the Federal Aviation Administration on improving their regulations. We handled the referral of disagreements between the Marine Corps and the National Parks Service with regard to overflights of the Cape Lookout National Seashore. Right now we are dealing with a referral from the Environmental Protection Agency with regard to contract renewal for the Central Valley project in California.

These are one of a multitude. These questions go on every day.

We have in the past reviewed the regulations of the Council that direct Federal agencies to prepare Federal environmental impact assessment documents. So this is a major, major task, a major work of the agency.

ROLE OF NEW CEQ CHAIRMAN

Senator MIKULSKI. Well, I want to turn to the role of the new CEQ Chairman.

The President has said he is committed to the environment. He has even called himself an environmentalist. Does that mean that the Chairman or the CEQ will be playing a larger role, and if so, what do you believe that these enhanced responsibilities should bring?

Mr. HILL. At the present time an options paper is being prepared for the President's consideration which will include, as I am told, a full range of options for activities of the Council. I haven't seen the final product itself, but I've had input to it.

Once the President has made those decisions then the intention is to recruit the appropriate appointees and proceed.

Senator MIKULSKI. Have you had any meetings with President Bush about this to share your ideas and directions?

Mr. HILL. No.

CEQ'S ROLE

Senator MIKULSKI. I understand that my colleague, Congressman Bill Green on the House Appropriations side, asked you questions on what you thought the role of CEQ should be. Mr. Mills thought the Council should be more of a facilitator of disputes between Federal agencies. And some 32 agencies deal with environmental issues. Would you concur with that?

Mr. HILL. Yes.

Senator MIKULSKI. Do you think that this agency should be transferred to the Environmental Protection Agency?

Mr. HILL. No, I do not, principally because of its independent perspective in the Executive Office of the President.

Senator MIKULSKI. Do you all feel that this agency has any power to get things done, and do you feel it has gotten things done?

Mr. HILL. I feel we have over these last 8 years. Now that has been through making recommendations that Members of Congress have taken up and supported, backed up by the President, the Office of Management and Budget.

The way we have worked at making these decisions is one in which we assure all agencies of full participation, and open the process to public review and comment. We hold our meetings in

the sunshine and essentially notice public meetings. And we do that and so I think we make better decisions because of that process, more informed decisions, certainly.

Senator MIKULSKI. Give me three examples of where you felt you had the power to get something done and did it.

Mr. HILL. Three examples.

For instance, when we recommended to the Army Corps of Engineers on the Tennessee Tombigbee Waterway mitigation plan they had proposed, we suggested to the Corps that they adopt a position of one-for-one mitigation for loss of bottomland hardwoods. The Corps was somewhat hesitant to do that, and during the appropriations process the Corps was told by the Appropriations subcommittee to do that, and they have done that. There's one example.

We worked with the United Nations Environment Program to develop a set of goals and principles uniting the environmental impact assessment processes as we suggested to all the member nations of the United Nations. Dinah worked on that project and brought it to a successful conclusion. In 1987 it was adopted by the governing Council.

We did try to promote a global convention on environmental impact assessments, the United States did at that governing Council meeting. We were not successful in that effort, but most of our allies said it's a little too soon. There is a growing movement among other countries to adopt such a process.

We were very successful, thanks to the cooperation of Chairman Martha Hesse of the Federal Energy Regulatory Commission, in adopting implementing recommendations for the National Environmental Policy Act—or NEPA. There has been a discussion going on for a multitude of years, and soon after she became Chairman she instructed the staff to get this issue resolved, get the regulations in place, and stop raising the issue that, as an independent agency, they didn't have to follow the National Environmental Policy Act. We were successful in doing that.

Senator MIKULSKI. That brings up something. It was interesting, sir, the way you talked about how Congress responded to you.

Do you feel that Congress is more responsive to the information you put out than other agencies?

Mr. HILL. I think we've been very fortunate to have good, strong backing from Congress on those decisions.

Senator MIKULSKI. On pretty much a bipartisan basis——

Mr. HILL. Absolutely.

Senator MIKULSKI. Mr. Green, Mr. Snyder and others?

Mr. HILL. Yes; there is no question about that. But the environment is by nature bipartisan. To be more successful we should do that.

Senator MIKULSKI. So essentially the Congress has relied upon your reports and your information and your analysis?

Mr. HILL. On these decisions; yes.

Senator MIKULSKI. On these decisions. And have been able to respond more quickly and more often. Am I correct in the way that works?

Mr. HILL. Yes.

Senator MIKULSKI. This is why I come back to this report that I'm so hot on. And this is the second year I've been hot on it.

If you lost those technical people the question is, Why didn't you hire them, why didn't you replace them, why didn't you move at the time right away. That's No. 1.

And, No. 2, if you couldn't, why didn't you get other agencies to detail them. Tell me why you didn't hire them.

Mr. HILL. Well, we have hired and been up to our FTE ceiling, which is 13, which includes the 3 members of the Council.

We have lost people in the last 5 months. I have hesitated to replace anyone thinking they might be there for a few months and then the new Chairman would come in and say, "I want someone else." So there has been a hesitancy since the election to go ahead and hire people.

We have contracted for assistance on the annual report. We have had assistance from other agencies.

One of the difficulties that Jackee has run into in completing the 1987-88 report is interagency review. Last year we mentioned difficulties at OMB. The current report has been under review now for 3 months.

That process—was it concluded this morning?

Ms. SCHAFER. Last night.

Mr. HILL. Last night. So it's ready to go to GPO?

Senator MIKULSKI. Well, so what would you do if you were me?

Mr. HILL. That's a very good——

Senator MIKULSKI. This is the second year I've heard this. Obviously OMB—I mean, you're right out of the White House. You're the three-member body appointed by the President and have a special status, essentially, to be an independent agency. And yet OMB doesn't think it important enough to move it along and give you the ability to do this report.

I asked about these reports last year, And then we're back with the same problem, the same issue. And I happen to think these are important tools, whether it is for the executive agencies, whether it is for the Congress, whether it is for business, trade associations, to see where we should be going.

And OMB obviously doesn't think it's that important.

Ms. SCHAFER. Madam Chair, I agree with you about the importance of these reports. And although we——

Senator MIKULSKI. The report is just symbolic of what is needed.

Ms. SCHAFER. I appreciate that. And we made an effort to try to catch up so that we don't leave a subsequent Council in the same arrears situation that I found when I joined the Council in 1984.

The way we put these reports together is either through a small amount of contracting with individual writers, who then we provide access to agencies for information, or we get the agencies to draft chapters. That material comes into the Council and I am the one who looks at it. I do all the editing, all the rewriting, all of the interagency communication, all the copy-editing and that sort of thing. So it really is a resource problem.

And, as the Chairman explained, he felt that with the deployment of resources that he had, that the priorities should be given

to the General Counsel's responsibility with respect to interagency compliance with NEPA, which is also a priority.

I could have produced a smaller report in a timelier manner, but I thought that it was important to attempt to do something in a substantive manner. And so we included detailed chapters on important topics before the Congress.

Wetlands, for example, was covered in this last book. And we will be releasing 10 years of air quality data—an analysis of urban air quality over the last 10 years.

We have a very substantial chapter on the status of the solid waste problem, which many State legislators have considered as the highest priority in their respective programs.

And we think now that with the completion of this 1987–88 report—which should be about 6 weeks from now after it is typeset and printed—that the future Council will be in a position to produce this in a timely manner.

Senator MIKULSKI. Well, Ms. Schafer, I'll tell you, that's an unacceptable answer. And I will tell you why.

If I could talk about the Appropriations subcommittee as an example, this particular subcommittee has responsibility for about $60 billion, at least for fiscal 1989, a $60 billion portfolio. We work with major agencies like HUD, Veterans Affairs, phenomenal complexity. The space program, the National Science Foundation, the Environmental Protection Agency. The subcommittee includes 19 independent agencies that vary from Arlington Cemetery to Selective Service, to you, to the President's Science Policy Advisor. I will tell you what my resources are.

I have Mr. Kelly—he's my staff director—Carrie Simmons, his assistant, and a clerical person. We have to produce something in a timely manner. That's the law; we comply with it. That's my responsibility to the Senate as Chair working with, on a bipartisan basis, Mr. Garn and his very able and cooperative staff.

The first thing I have to do, I have to produce something called views and estimates, which comments on the President's budget. I have a deadline. I meet my deadline.

Then when it comes to the end of the fiscal year I have to produce a report, a report to the U.S. Senate so that every Senator and every American citizen can see what it is we paid attention to, what it is we want to do and where we want to put the Federal checkbook and why. Again, I produce this with three people, for multiple agencies.

Now I'm not comparing me to you and I'm not comparing Mr. Kelly and my staff to yours.

Some of us have to meet deadlines. Some of us meet deadlines. We have skimpy resources. There are times, because of the overwhelming nature of work, we reach out to agencies and ask them to help us with a particular project.

This subcommittee went from Proxmire to Mikulski. We didn't miss a beat. It went from Reagan to Bush. It's not like it went from Reagan to Dukakis. It didn't miss a beat.

So I'll tell you, I wonder about the Council on Environmental Quality. I wonder about the ability to meet things in a timely way. It is true you're not a big ticket agency, but I think in terms of

public policy they are very important. They're very important to this Congress, as you've indicated, sir.

How the Congress used it and what's so great about your report is that Ann Gorsuch could use it and Claudine Schneider could use it and Barbara Mikulski could use it and Helen Bentley could use it and Connie Morella could use it for whatever prism we look through, for whatever perspective that was there, we then went to work on it.

If you can't meet your deadlines I wonder if you view this as important either by the council itself or by others. Then the question goes to the role of the Council and whether we should keep it. Should we fund it. Is the problem a lack of resources or what? You didn't lack the money to hire these people to do the job; is that right?

Mr. HILL. Not this fiscal year.

Senator MIKULSKI. So when you meet with your successor I hope you say that, "You're going to have of a tough hearing with the Appropriations subcommittee in the Senate. They are very dissatisfied with the way that we fulfill our statutory mandate," I don't know about your successor, but I must say, as hard as many of you tried, it's been a bust.

It's not within the purview of this committee to guess why. Maybe George Bush and maybe OMB is going to be different. I don't know. But we're putting a million bucks in it and then we want a million bucks of service out of it.

Mr. HILL. We have tried.

Senator MIKULSKI. We'll take your word for it. And we wish you good luck. And we would like you to convey that to your successor.

Mr. HILL. Sure.

SUBMITTED QUESTIONS

[The following questions were not asked at the hearing, but were submitted to the Council for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR MIKULSKI

GLOBAL WARMING

Question. President Bush has said that fostering international cooperation on the Global Environment is one of his special areas of concern. How does your budget request reflect this? What do you plan to do in this area in fiscal year 1990?

Answer. CEQ has prepared draft guidance on the issue of how federal agencies should begin to consider global climatic change impacts in the context of compliance with the National Environmental Policy Act. We will be circulating that guidance during fiscal year 1989, and, during fiscal year 1990, would expect to conduct oversight of the implementation of that guidance.

CEQ will participate in discussions in the framework of the Domestic Policy Council about implementation of the Montreal Protocol for the Protection of the Stratospheric Ozone Layer and regarding an appropriate responses to the issue of global climatic change. Among other things, these activities will involve assisting in the formulation of U.S. policy in the context of discussions with the United Nations Environment Programme and the World Health Organization, based upon the work of the Intergovernmental Panel on Climate Change (IPCC).

Resources used for these activities will primarily be the Chairman, or other Council Members as designated by the Chairman, and Office of Environmental Quality staff, as designated by the Chairman.

Question. The EPA recently released a draft two-year study on global warming which includes a strategic plan to limit warming and eventually reverse the trend.

The plan calls for such tactics as charging users of fossils fuels emission fees major reforestation program; and a total phase-out of CFCs.

These recommendations have very significant policy implications. I'm concerned that there's no one in charge of the nation's policy efforts—is this an area CEQ should head up? If not CEQ, should it be?

Answer. At present, policy regarding this issue is formulated by the Domestic Policy Council. CEQ is a member of the Environment, Energy and Natural Resources Working group, which is currently considering global warming issues.

A large number of Federal agencies are working together under Domestic Policy Council direction to develop both a comprehensive domestic policy on climate change and a strong U.S. leadership role in international activities relating to global climate change.

The EPA study to which you refer: Policy Options for Stabilizing Global Climate does not include a strategic plan nor does it make recommendations about actions to limit warming. The study identified a number of technical and policy options which, if implemented, could help limit greenhouse gas emissions. The study does not analyze the costs, benefits, or other social and economic implications of potential actions, but does provide a menu of potential actions for further examinations.

The potential actions identified in the EPA study, and others, are being examined internationally in the response Strategies Working Group of the Intergovernmental Panel on Climate Change (RSWG/IPCC). Such international activity is essential because climate change is global in both effects and causes. A wide range of Federal agencies are working closely together on the United States efforts in the IPCC, with necessary policy coordination by the Domestic Policy Council. These U.S. efforts in the IPCC include not only the examination of potential responses, but also an assessment of the science of climate change and its substantial uncertainties through the Science Working Group, and an assessment of social and economic impacts through a third IPCC working group.

Question. When will an interagency group be established to deal with the nation's global warming policy?

Answer. As noted above, the Environment, Energy and Natural Resources working group, reporting to the Domestic Policy Council, is working on this issue.

Question. I note on page 31 of your justification that CEQ has held some meetings on global climate change. What did you learn from those meetings?

Answer. CEQ held eight meetings, from April 1987 to September 9, 1988, regarding stratospheric ozone depletion and global warming.The meetings were held pursuant to the Sunshine in the Government Act, and thus, were opened to all interested persons. The first seven meetings were briefings from highly respected scientists, for the purpose of briefings the Council on climate change due to the greenhouse effect and stratospheric ozone depletion, human health effects and biological, terrestrial and aquatic impacts of stratospheric ozone depletion and global warming, and on the 5 year plan issued by the National Climate Program Office. The final meeting was for the purpose of discussing with representatives of a number of Federal agencies the subject of stratospheric ozone depletion and global climate impacts in the context of compliance with the National Environmental Policy Act. As a result of these meetings, the Council became much more knowledgeable about these issues and about the Federal agencies' current state of knowledge and treatment of these issues when examining their own proposed actions. This knowledge was used by CEQ in our draft guidance to the Federal agencies on global climatic change and the National Environmental Policy Act.

TRAVEL

Question. I note on page 45 of your budget request that the travel budget is slated to increase to $22,000. This is an increase of 47 percent over the FY 88 budget. Why is this budget going up so dramatically in a two-year period?

Answer. Experience has shown that increased foreign travel can be expected because of CEQ's role in international environmental matters, which are assuming a much greater role in the environmental arena. This includes involvement with the United Nations Environment Programme UNEP), the Economic Commission for Europe (ECE), and the Organization for Economic Cooperation and Development (OECD), as well as continuing work in the follow-up to the report from the World Commission on Environment and Development. CEQ also heads two bi-lateral agreements, with the Soviet Union and Japan, on environmental law and environmental impact assessment. Further, CEQ staff is frequently asked to speak at Federal agency workshops and conferences on implementation of the National Environmental Policy Act.

Finally, CEQ may make a site visit and/or holds public meetings in the area of a specific Federal interagency dispute which has been formally referred to the Council under Section 309 of the Clean Air Act and the CEQ regulations implementing the National Environmental Policy Act. For example, a recent public hearing held in Fresno, California (with only two, instead of a three Member Council) cost approximately $3,500. It should also be noted that this item is a request for a $7,000 shift of funding, based on what we believe to be a realistic estimate.

Questions Submitted by Senator Fowler

REVIEW OF FEDERAL WATER POLICIES

Question. As you know, last summer's droughts, and the droughts that have really afflicted parts of the country for the last decade, have emphasized to many in Congress the need for better policies at the Federal level to encourage the wisest and highest use of our Nation's water resources. We've got situations where the Federal Government is practically giving water away to some people while others, only a few miles away, endure drought restrictions. We have situations where one Federal agency subsidizes water used to produce crops that are subsidized by another Federal agency. We have Federal agencies whose solution to demands for new water is to build dams and other water supply projects, while other Federal agencies wisely, but so far ineffectively, promote methods of reducing water demands without diminishing residents' standard of living. We have Federal agencies that encourage the draining of our recreational and water supply reservoirs to subsidize hydropower production, and we have Federal agencies that struggle to maintain some balance in these operations.

In the midst of all this, the American people are beginning to ask of Federal water policies—what is our Government doing? How can our leaders drive with one foot on the accelerator and one foot on the brake? And the stakes are so high—our whole lifestyle, our whole economy depends on water—that this is a crucial question.

Years ago, we had an interagency institution called the Water Resources Council, which coordinated these policies at the highest levels, with some degree of success. In fact, this body still exists, but it has no staff, no office, no meetings. This lack of coordination has been evident in our contradictory water policies.

Last year, I introduced legislation mandating a comprehensive policy review by each Federal agency whose policies substantially affect water supply, use or management, so as to provide Congress and the President with the information necessary to revise these policies to reflect changing economic and environmental considerations. I may reintroduce similar legislation in this Congress, but what is not clear to me is how to get at this problem of coordination. And I thought the Council on Environmental Quality might have an answer to that.

I know that the CEQ is currently involved in resolving one such water policy question concerning the renewal of Bureau of Reclamation water contracts in California. I won't ask you to comment on this review other than to request that you give us some indication of when you expect to decide on this important matter.

But the CEQ seems to me to be in a unique position to carry out just such a comprehensive interagency review of Federal water policies, with an eye to the long-term needs of the Nation for clean and available water supplies, for agricultural and industrial water, for hydropower, navigation, and recreational water use, and for environmental protection and conservation of our scarce natural resources. Would CEQ be willing to undertake just such a review? Would you, in your opinion—and I don't think you would, based on my reading of the National Environmental Policy Act—need congressional authorization to do this? Would you need additional funding or staff?

Answer. First, let me comment on your observations that Federal water policies are often contradictory, and that this is due to a lack of executive coordination, in general, and the lack of an effective coordinating institution, in particular. As I am sure you are aware, the apparent "contradictions" are the legacy of individual statutes enacted at different times in our history to implement some specific national, regional or local water resource development policy (e.g., promote western irrigated agriculture, develop the Tennessee Valley region), to respond to some natural disaster (e.g., flood control dams and reservoirs), or to improve environmental quality and related recreational opportunities (e.g., fish and wildlife coordination, public recreation requirements for hydropower license renewals, assistance to construct municipal wastewater treatment facilities).

Over the year both the Executive and the Congress have considered similar questions of duplication, inconsistency and the appropriate federal role. Succeeding Administrations and Congresses attempted to deal with these issues by seeking greater efficiencies through improved management, greater nonfederal responsibility and closer Federal, state and local coordination. For instance, in the 1950s, the Eisenhower Administration insisted that if Federal funds were to be used, projects must serve "multiple purposes," with some purposes remaining a local financial responsibility. Recommendations of the Kerr Committee in the 1960s led to greater emphasis on nonstructural solutions in water project development.

In the 1970s, environmental impact analysis was required for Federal water resources projects for the first time. In the 1980s, the Reagan-Bush Administration adopted a policy of increased non-federal cost-sharing or user-financing for all new federally assisted water resource development projects. This policy, when placed in the related context of sound environmental practice and fiscal restraint, appears to be encouraging more effective and efficient projects, better management of existing facilities, and lessened adverse environmental impact.

The present Council on Environmental Quality has reviewed this historical development of water resource policy, and has discussed some of the issues you raised in its recent Environmental Quality Reports. (See, for example, a chapter in the 15th annual report, enclosed). CEQ's forthcoming report reviews the most recent policy changes and the trends associated with them in a chapter on "Developed Water Resources".

While the Council does have the authority to undertake a more ambitious study of water policy, a more practical approach might be to convene an interagency group. Staffing would be supplied by participating agencies to review the effectiveness of the recent policy changes and identify any key issues that remain for consideration by the Cabinet-level Domestic Policy Council (DPC). In 1987–88, for instance, CEQ chaired an interagency task force for the DPC which coordinated the Administration's policy on outdoor recreation; in this case, however, the participating agencies were under clear instructions from the DPC to provide assistance from existing resources for this effort. Indeed, the Domestic Policy Council itself could direct that such a review be coordinated through its own immediate staff or at a minimum set the agenda. Finally, OMB has also served to coordinate Federal policy on particular issues, and in fact routinely does so through the annual budget process. The President's Budget for FY 1990 discusses the policies which are currently in place to improve consistency in water resource projects (pp. 5–51 ff.)

The Council believes that what is more important than the particular institutional forum for evaluating any such policy question is the active participation by all relevant Federal agencies. We know through experience that meaningful participation in the policy making process is essential to a faithful and enthusiastic implementation of the policy that is chosen.

SUBCOMMITTEE RECESS

Senator MIKULSKI. This subcommittee will stand in recess until next Monday, April 17, when we will let Secretary Derwinski make his presentation on behalf of the Department of Veterans Affairs. This will take place in Dirksen 138.

The subcommittee stands in recess.

[Whereupon, at 12:02 p.m. Tuesday, April 11, the subcommittee was recessed to reconvene subject to the call of the Chair.]

VA, HUD, AND INDEPENDENT AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1990

TUESDAY, APRIL 18, 1989

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10:10 a.m. in room SD–192, Dirksen Senate Office Building, Hon. Barbara A. Mikulski (chairman) presiding.

Present: Senators Mikulski, Leahy, D'Amato, Gramm, Fowler, Grassley, and Nickles.

DEPARTMENT OF VETERANS AFFAIRS

STATEMENT OF HON. EDWARD J. DERWINSKI, SECRETARY

ACCOMPANIED BY:

ANTHONY J. PRINCIPI, DEPUTY SECRETARY

DR. JOHN A. GRONVALL, CHIEF MEDICAL DIRECTOR

ROBERT W. SCHULTZ, DEPUTY ASSOCIATE DEPUTY ADMINISTRATOR FOR LOGISTICS

GRADY W. HORTON, DEPUTY CHIEF BENEFITS DIRECTOR FOR MANAGEMENT

OPENING REMARKS OF SENATOR MIKULSKI

Senator MIKULSKI. The subcommittee will come to order. Today we are pleased to welcome my friend and former House colleague, Secretary Edward Derwinski, who is here to present testimony on the newly created Department of Veterans Affairs' fiscal year 1990 budget request.

We know that yesterday Mr. Derwinski was traveling with the President as he announced some very important initiatives in our bilateral relationship with Poland to acknowledge the attempts at democratic steps taken by the Polish Government.

Mr. Derwinski has played a longstanding role in being an advocate of solidarity and the yearnings of Polish people to express themselves in a more free way. So we were happy he was able to accompany the President to talk about how we can help this situation.

But Mr. Derwinski has an even more difficult task trying to manage the Department of Veterans Affairs. The Secretary has assumed his new role at a time of great change and turmoil for many of America's 27 million vets. From 1980 to 1990 the number of vet-

erans over 65 will more than double to more than 7.2 million, over 25 percent of all veterans.

This demographic shift, along with the sharp funding constraints in recent years, has stretched the agency's service delivery to the limits, particularly in the area of health care.

In order to be an American vet, you can't be an honorary member. You had to have paid your dues, and usually by being in one foxhole at a time. The vets are the heroes of our time, whether it was in the forests of Europe, the beachheads of the Pacific, the mountains of Korea, the jungles of Vietnam, or the streets of Beirut.

Our vets throughout our country's history have done what was needed to save our democracy and our way of life, and it is our responsibility in a democratic society to say thanks to our vets by providing them with the benefits and care that they were promised and that they earned.

In taking a look at the Bush administration's request for the VA for fiscal year 1990, I am concerned that the administration has fallen short on this responsibility. The request of $28.6 billion for the VA represents a modest increase of $465 million, less than 2 percent over last year, less than the rate of inflation, and we are concerned if we don't do an adequate job in the fiscal 1990 budget we will once again be faced with the need for a supplemental.

We would rather do it right in the 1990 budget than deal with a calamitous crisis similar to what we are now facing with the budget shortfalls in the Medical Care Program.

So as we take testimony for the 1990 budget, know that we want to get it right so that we do not leave our veterans at risk, and so that those who serve the veterans, be they the doctors, the nurses, the ones handling the pensions or the housing, have enough money to do their job.

So we look forward to taking this testimony, and I am going to ask unanimous consent that my full statement go into the record.

[The statement follows:]

OPENING STATEMENT OF SENATOR MIKULSKI

The subcommittee will come to order. Today we are pleased to welcome my friend and former House colleague, Secretary Edward Derwinski, who is here to present testimony on the newly created Department of Veterans Affairs' fiscal year 1990 budget.

The Secretary has assumed his new role at a time of great change and turmoil for many of America's 27 million veterans. From 1980 to 1990, the number of veterans over 65 will more than double to more than 7.2 million, over 25 percent of all veterans. This demographic shift, along with sharp funding constraints in recent years, have stretched the agency's service delivery systems to the limit.

There are no honorary members among America's veterans. They are the heroes of our time, whether it was in the forests of Europe, the beachheads of the Pacific, the mountains of Korea, the jungles of Vietnam, or the streets of Beirut.

America's veterans, throughout our country's history, have done what was needed to save our democracy and our way of life. And it is our responsibility as a democratic society to say thanks to our heroes by providing them with the benefits and care they have earned and have been promised.

In reviewing the Bush administration request for the VA for fiscal year 1990, however, I am afraid that the administration has fallen short of this responsibility. Their request of $28.6 billion for the VA represents an increase of only $465 million—less than 2 percent over last year, less than the rate of inflation, and well below the need which most veterans groups have told me that exists.

Mandatory benefit programs would receive $16 billion or 56 percent of the total budget. Medical programs would total $11 billion; construction programs would amount fo $488 million; and $830 million would be directed at general operating and miscellaneous expenses.

Our hearings today and tomorrow will largely focus on VA medical care, an account that represents 86 percent of the VA's discretionary, nonentitlement funds. Due to constraints imposedby the 1987 2-year budget summit agreement, the VA's medical care account is now experiencing severe funding shortfalls.

The signs of this shortfall are quickly becoming evident in all 50 States: Many veterans with non-service-connected disabilities are being refused care; basic supplies cannot be purchased; equipment backlogs mount; and hospital beds go empty because of staffing shortages.

The administration has sent up a supplemental appropriation request of $303 million for VA medical care, an amount smaller than what is needed to maintain even current levels of service.

The House is in the early stages of moving this supplemental. I intend to work with Senator Byrd and the Democratic leadership to move on this measure as quickly as possible once we receive it from the House.

Without swift action, what is now a crisis in VA health care, will soon become a catastrophe.

In addition, if Congress enacts the proposed supplemental, VA medical care spending in fiscal year 1989 will top the fiscal year 1990 medical care request from the administration by $100 million. While the Secretary has courageously gone to the President, over the objections of the boys in the green eye shades at OMB, for a $512 million budget amendment to the 1990 medical care request, the administration has yet to respond.

I intend to fight any attempt by the Bush administration to put our sick and infirm veterans in the OMB black box of cuts to meet our Gramm-Rudman target. The red ink of the Federal deficit should not be balanced in the red ink of America's veterans.

There are a number of other issues we will discuss with Secretary Derwinski: Funding for AIDS, homeless programs, substance abuse, and medical research. We also are anxious tohear what changes the Secretary has in store for the Department's management and what is his strategic plan for coping with the graying veterans population.

You have an enormous task ahead of you, Mr. Secretary. We are delighted to see you today and look forward to working with you and hearing your testimony. You may proceed and then we will turn to questions.

Senator MIKULSKI. The Chair welcomes Senator Leahy of Vermont for any comments he might wish to make.

STATEMENT OF SENATOR LEAHY

Senator LEAHY. Madam Chair, I will try to be very brief because I want to get on with this important hearing. We want to hear from Secretary Derwinski.

And I welcome you, Mr. Secretary. We have known each other for a long time and I am delighted to see you here.

As I told you before, I don't envy you your situation. I think you received an equal number of congratulations and condolences when you got this appointment as the first Secretary of Veterans Affairs. You have inherited a VA medical system that is facing a severe budget shortfall.

Despite the fact that there has been congressional add-ons of $1.7 billion over the past 7 years, medical centers around the country are running huge deficits. They are working with smaller staffs, older equipment, and, in some cases, fewer beds. For a number of years the administration has asked the VA to do more with less. Now, the VA is simply doing less. The quality of care provided by the VA is in jeopardy. Staff morale is at a low point, making re-

cruitment in a highly competitive medical profession even tougher. Our aging veterans population only compounds these problems.

I am deeply concerned about the care at rural VA medical centers, one of which is in my own State in White River Junction. I feel these hospitals and patients fare less well under tight fiscal constraints than their urban counterparts, and I am not suggesting your urban counterparts are doing all that well either.

A recent study by the Senate Special Committee on Aging indicates that rural communities have a disproportionate number of individuals who are poor, uninsured, and elderly. While a quarter of the population lives in rural America, a third of the Nation's elderly live in rural communities. One-third of the veterans population in Vermont did their service during World War II.

While I paint a bleak picture, I welcome your appointment as Secretary. In the short time since you have been sworn in I feel the VA has taken important steps to address its budget predicament. I applaud your decision to secure a supplemental for fiscal year 1989.

Mr. Secretary, I know you are a person that believes in taking charge and being involved yourself. I think that is good for veterans. It is also good for the country. I want to work with you, and I am glad you are here.

Madam Chair, I am pleased you are having these hearings. Again, I applaud you as the new Chair of this committee, and I offer condolences to you, too, as you begin to piece this budget together.

Thank you.

Senator MIKULSKI. The Chair acknowledges that Senator D'Amato has joined us.

Senator, do you want to make an opening statement or do you prefer to get yourself settled?

Senator D'AMATO. Madam Chairperson, in the interest of time, I would like to submit a statement as if read in its entirety and thank the Chair.

Senator MIKULSKI. Without objection, so ordered.

[The statement follows:]

STATEMENT OF SENATOR D'AMATO

Madam Chair, I commend you for addressing the important role that the Department of Veterans Affairs plays in serving the Nation's 27.3 million veterans. I have always been a strong supporter of our veterans, and I am pleased to be discussing their future today.

The budget we are reviewing today is the first veterans budget submitted since the former Veterans Administration was elevated to Cabinet status and reorganized as the Department of Veterans Affairs. Accordingly, today's hearing represents our first opportunity to hear testimony from the new Secretary of Veterans Affairs, Mr. Edward Derwinski. I look forward to his comments today, and to his leadership on behalf of our Nation's veterans.

The fiscal year 1990 budget request for the Department of Veterans Affairs totals $28.6 billion—an increase of approximately $193 million above funds appropriated in fiscal year 1989. I am concerned, however—especially in light of shortfalls identified in the current year's budget—that this request will be insufficient to meet the needs of our veterans in the coming fiscal year.

It is estimated that veterans' medical care is underfunded this year by more than $300 million. Despite the modest increase proposed in the President's budget, shortfalls in excess of $500 million have been projected for 1990. Unless we act now to address both the current and projected shortfalls, we will see a drastic erosion of services to our Nation's veterans.

I am pleased that Secretary Derwinski has recognized the urgent funding problems facing the VA. I appreciate his efforts to secure a supplemental appropriation of $314 million for VA medical care in fiscal year 1989. Equally important is his request for an additional $512 million for medical care in fiscal year 1990. These efforts are crucial to restoring soundness and stability to the programs that serve our Nation's veterans.

I look forward to working with my colleagues on this subcommittee and with the administration to ensure that our veterans continue to receive the top priority they deserve.

Thank you, Madam Chair.

Senator D'AMATO. It is good to see my good friend, Ed Derwinski. Ed, good to see you.

Senator MIKULSKI. Mr. Derwinski, why don't you proceed then with your testimony?

Mr. DERWINSKI. Thank you, Madam Chair.

STATEMENT SUMMARY

Mr. DERWINSKI. I appreciate the opportunity to appear before your committee this morning, and the team surrounding me here are VA veterans whom you have met before and you are aware of their expertise.

I have one new participant, the gentleman on my right. Tony Principi is the Deputy Secretary, and Tony is especially relaxed here this morning. He spent about 10 years of his life as a Senate staffer, and so he is at home and relaxed in this environment despite the gravity of our subject.

But may I pick up on a point, Madam Chair, that you and Senator Leahy noted, and that is the alleged difficulties of my assignment.

I don't consider the assignment difficult. I consider it necessary, and it is a service that we are providing. I think the greatest obligation our country could undertake is to serve the veterans who served us well in time of national crisis and national need.

So in that sense it is a challenge. It is a problem because of the budget complications, but it is in fact a rewarding undertaking in the sense of the stimulation that one gets from providing service to people who are legitimately in need, and in need because of their service to our country.

I do have a complete statement, which I would ask to be inserted in the record in full.

Senator MIKULSKI. Without objection, it will be included at the conclusion of your oral summary statement.

Mr. DERWINSKI. I thought I would use this very brief time this morning just to emphasize my agreement with you on the point you stressed about the gravity of our budget situation.

We especially appreciate the fact that you and your committee have understood the need for our supplemental funding request for fiscal 1989, and while I don't want to be overly optimistic, I would hope that your goal of handling things up front for fiscal 1990 rather than having us sweat through another supplemental again would certainly help us in our long-range planning and give us a much more practical vehicle fundingwise to direct toward those problems that we know are there and will continue to be there.

The challenges that we have are those again that you have properly emphasized, which include the aging of the veteran popula-

tion, the geographic shifts in that veteran population, and adjustments in the location and type of health care that we provide.

This is a national problem, and we have to look at it in that fashion.

DRUG ABUSE

There is also the national problem of drug abuse which is evident within the veterans community, and we are attempting to respond to that with aggressive drug treatment programs. In addition to that, we play a very positive role in the treatment of AIDS patients, in efforts to sustain quality programs, health care-wise, for veterans across the board, as well as our special obligation to veterans who are caught up in the terrible cycle of homelessness. Here again there has been a very active leadership role demonstrated by the VA.

HIGH PRIORITY ISSUES

We would call to your attention the fact that we have proposed that the VA be allocated approximately $189 million from fiscal 1990 funds which the President has identified for high priority issues, and those high priority issues where we come into play are AIDS, drugs, homelessness, and biomedical research. We think we can make an excellent case for the VA playing a leading role and demonstrating the effectiveness that we all want in combatting these problems.

I might add that I met with Mr. Bennett. I hesitate to say Czar Bennett because with my Polish background the word "Czar" has never been one of affection for me.

Senator MIKULSKI. At least we are not calling him Kaiser Bennett.

Senator GRAMM. Nice ring, though. [Laughter.]

Mr. DERWINSKI. I think "Mr." suffices.

But I did point out to him that the war on drugs, as I saw it, necessarily had to include emphasis on treating drug addicts and curing addiction, and that is a role that the VA is admirably equipped to play, and we are ready to do so and we hope that we will be included in the practical distribution of those specially allocated funds.

COOPERATION WITH CONGRESS STRESSED

Also, Madam Chair and members of the committee, we are interested in cooperating with you to the fullest possible extent. The rules I set down for the Department include complete cooperation with Congress, complete acknowledgement of any issues and problems that are called to our attention. We have nothing to hide. We are not going to be sweeping problems under the rug. We want to face them head on, and we at all times wish to cooperate with you and your fellow committee members and your staffs for the betterment of the VA and therefore for the betterment of our veterans.

That is the way in which I personally and my team will approach our cooperation with you and look forward to a necessary close relationship and appreciate at this point—again to reempha-

size our understanding of the role you have played so far in helping us with our 1989 supplemental. It is urgently needed.

With that, Madam Chair, I would end my comments and be prepared, along with my team here, to answer questions that you and your committee members have for us.

PREPARED STATEMENTS

Senator MIKULSKI. Thank you very much, Mr. Secretary, for being so crisp in your comments.

As I stated earlier, without objection, your prepared statement, together with those of Dr. Gronvall, Mr. Vogel, and Mr. Hamerschlag, will be inserted in the hearing record at this point.

[The statements follow:]

STATEMENT OF EDWARD J. DERWINSKI

Madam Chair and Members of the Committee, I appreciate this opportunity to appear before you today to present the fiscal year 1990 budget for the Department of Veterans Affairs (VA). Since the Bush Administration's proposals for fiscal year 1990 uses the Reagan budget estimates as a starting point for the negotiations between the Administration and the Congress, I am providing the details of that request. The Reagan budget request includes $30 billion in new budget authority to fund medical, compensation, and other programs for the Nation's 27.3 million veterans, eligible members of their families, and survivors of deceased veterans.

Included in the Reagan budget is an appropriation request for $28.6 billion, net savings of $84 million related to proposed legislation and $1.4 billion through permanent authorizations. President Reagan's fiscal year 1990 request for the VA represents an increase of approximately $193 million above the appropriated level for fiscal year 1989. Reagan budget outlays for fiscal year 1990 are estimated at $29 billion. Average employment (FTEE) is expected to decrease by 5,019 from the 1989 appropriated level to 213,143.

I would like to emphasize that providing quality medical care and benefits to America's veterans is one of our highest priorities. Included in President Reagan's budget are funds to support initiatives designed to utilize modern technology that will improve the delivery of all benefits and services to eligible veterans. The Reagan budget also includes funds for the expansion of the system by funding a new hospital in West Palm Beach, Florida and funding a new national cemetery in Northern California.

In the area of medical care, the Reagan budget provides sufficient resources to provide hospital and outpatient care to those veterans whose care VA is obligated by law to provide. Care will continue to be provided to all service-disabled veterans who request it, as well as to former prisoners of war, veterans exposed to toxic substances and radiation, and all lower and middle income veterans as well as to most higher income veterans who apply. In addition, all veterans in need of emergency care, regardless of income, will continue to receive treatment. The Reagan budget request provides for 1. 2 million episodes of inpatient care and 23 million outpatient visits. As indicated by the continuing drop in length of stay for inpatients, the demand is being met by the introduction of new technology which increases productivity and improves the services provided by our medical personnel.

The President has approved and sent to the Congress, a 1989 Medical Care supplemental request for $303 million to restore the community nursing home workloads, outpatient visits and capital equipment funding for existing and completed activation projects. Funding has also been requested for facility activations and for drugs, medicine and supplies.

An additional $11 million is proposed to be made available for direct medical care by shifting funds from the beneficiary travel program. Finally, another $20 million is available for direct medical care due to lower than expected 1989 costs in our CHAMPVA program. Enactment of the VA supplemental request would bring the total increase in 1989 for direct medical care to $334 million.

The Reagan budget request for 1990 also includes funds that will provide for the establishment of an adjudication academy. This facility, which will be established at the Washington Regional Office, will allow the Veterans Benefits Administration (VBA) to provide a centralized, comprehensive training program to approximately 120 adjudicators in 1990.

I will now summarize the Reagan Administration's fiscal year 1990 budget request for the VA, highlighting the budget issues for each of the major accounts.

COMPENSATION

The 1990 Reagan budget requests $11.2 billion, under existing law, to provide compensation payments to 2.2 million veterans and 326.5 thousand survivors. The 1990 funding request, included in the Reagan budget, reflects the full year impact of the 4.1 percent compensation rate increase provided to all recipients effective December 1, 1988.

The Reagan budget proposes legislation to index compensation benefits to the annual change in the Consumer Price Index. Enactment of this proposal would guarantee that all compensation recipients are provided a full and timely cost-of-living adjustment. It is currently estimated that the first such automatic cost-of-living adjustment, effective December 1, 1989, will be 3.6 percent and cost approximately $318 million.

PENSIONS

The 1990 Reagan budget submission includes an appropriation request of $4.0 billion. This amount is needed to provide payments to 1.1 million eligible recipients. The 1990 caseload estimate is 54 thousand below the 1989 estimate. The caseload reduction reflects a continuing trend in this program. Although it is anticipated that the number of veterans age 65 and older will increase during this decade, improvements in retirement benefits as well as other income sources will result in the continued decline in pension caseload.

The 1990 Reagan budget request includes the full year impact of the 4.1 percent cost-of-living increase provided to Improved Law recipients in December 1988, as well as an estimated 3.6 percent cost-of-living adjustment which would be effective in December 1989. The cost-of-living adjustments to eligible pension recipients, by law, are based upon the actual change in the Consumer Price Index and equal the annual increases in Social Security.

BURIAL BENEFITS AND MISCELLANEOUS ASSISTANCE

For 1990, President Reagan requested an appropriation of $152.6 million to support operations in the Burial Benefits and Miscellaneous Assistance appropriation.

The Reagan budget proposes legislation to change the eligibility requirement for the burial plot allowance to be consistent with the eligibility requirement for the basic burial allowance, with the exception that veterans who are buried in State Cemeteries will continue to remain eligible. Enactment of this legislation is estimated to save $36.5 million in 1990.

READJUSTMENT BENEFITS

An appropriation of $434.1 million is requested in President Reagan's fiscal year 1990 budget to operate the programs funded by the Readjustment Benefits appropriation. This funding level will provide benefits to 91,600 veterans and service-persons training under the Vietnam era G.I. Bill program, as well as basic education benefits to 78,600 veterans and service-persons under the new Montgomery G. I. Bill. The basic benefits for veterans and service-persons as well as payments for reservists under the new program will be enhanced with a $137 million transfer, primarily from the Department of Defense, which will be used to finance benefits to veterans, reservists and service-persons. Education benefits under the older programs will also be provided to 38,800 dependents and vocational rehabilitation to 22,700 disabled veterans.

These programs are in a transition as eligibility for the new Montgomery G. I. Bill gradually replaces eligibility for the older programs. The trainee level under the older programs is estimated to be 68 thousand fewer in 1990 than in 1989 but the trainee level under the new program is expected to be 53 thousand higher. As more individuals become eligible for benefits, the number of trainees will continue to increase.

The Reagan budget proposes legislation to increase dependents' assistance allowances and vocational rehabilitation subsistence allowances by five percent effective January 1, 1990. This is estimated to result in additional obligations of $5.2 million in 1990.

LOAN GUARANTY

An appropriation of $453 million would be necessary under existing law in 1990 to support operations in the Loan Guaranty Revolving Fund. This appropriation request would fund nearly $3.6 billion in obligations estimated for 1990. However, considering the proposed legislation, the Reagan budget requests $251 million. We will be reevaluating the requested level for technical corrections when more current data are available. It is projected that nearly 178,000 loans totaling $13.9 billion will be guaranteed in 1990.

The 1990 Reagan and Bush budgets propose legislation to grant the Secretary of the VA more flexibility to sell loans with or without recourse. Current legislation prohibits the selling of loans after 1989 without recourse, unless they can be sold at par. Non-recourse sales offer the advantage of eliminating the Government's future liability to repurchase bad loans. Moreover, non-recourse sales have saved GOE resources in the areas of loan servicing and property management and provide a yield on a net present value basis that is comparable to the yield on recourse sales.

In addition, the Reagan budget assumes legislation to increase and make permanent the funding fee, effective October 1, 1989, from one percent to 3.8 percent of the loan amount on guaranteed and vendee (direct) loans. However, as you know, the President's budget submission of February 9, 1989, contains a policy revision that recommends a continuation of the one percent fee for 2 years.

President Bush's February 9, 1989, budget document reflects an appropriation need of $672 million under proposed legislation for the loan guaranty revolving fund. This estimate includes revenue estimates from a one percent funding fee and nonrecourse loan sales. Included are savings of $150 million associated with implementation of the change in regulations to include the government's cost of borrowing in the determination of whether to acquire foreclosed property. Additionally, $21 million in savings could further reduce the appropriations needed if funding for the Loan Guaranty Production System is provided as requested in the fiscal year 1989 Loan Guaranty supplemental request.

We expect that VA regulations to include the government's cost of borrowing as a Federal cost in the determination of whether to acquire or not acquire foreclosed property will be effective by August, 1989. We estimate that this change will save $188 million and will result in the acquisition of 10 percent fewer properties in 1990.

The Reagan budget also proposes legislation to allow veterans to negotiate the interest rate on VA-guaranteed mortgages, providing maximum flexibility to veterans to structure the financing of their home purchases to best meet their needs.

The fiscal year 1990 Reagan and Bush budgets propose a Credit Reform initiative that explicitly recognizes the benefit, or grant, received by a borrower in obtaining a Federal guaranty for repayment of the borrower's debt and thereby obtaining credit under more favorable terms than from the private sector. Enactment of these initiatives will have no impact on the veterans' ability to obtain guaranteed home loans from private lenders with no down payment.

GENERAL OPERATING EXPENSES

A total of $803.6 million is requested for the General Operating Expenses appropriation in the 1990 Reagan budget. This funding level, which is $29.2 million above the 1989 level, will support an average employment level of 16,797.

The 1990 Reagan budget request for the Veterans Benefits Administration (VBA), formerly the Department of Veterans Benefits, is $548.8 million with an average employment level of 12,100. This resource level is $33 million above the 1989 level while average employment decreases 550. Approximately one half of this reduction reflects the transfer of 227 FTEE to the Veterans Health Services and Research Administration. These employees, who were assigned to VBA, provided administrative support to the health services activity.

Included in VBA's budget request is nearly $25.1 million to support the Twelve Point Plan for modernization. The modernization initiative will allow VBA to improve the delivery of benefits and services through technology. It is anticipated that 167 FTEE will be saved through implementation of several modernization initiatives in 1990.

In addition, the Reagan budget proposes legislation that would allow the funding of the Loan Production System (LPS) from the Loan Guaranty Revolving Fund in 1989. This will result in a savings of $4.4 million and 177 FTEE from the fiscal year 1990 GOE request in addition to providing savings in the Loan Guaranty Revolving Fund. This automation effort is designed to improve the timeliness in the processing and monitoring of applications, valuating properties, assigning appraisers and, when necessary, scheduling inspections.

In its modernization efforts, VBA is faced with three issues. These issues are to address a long-term solution, implement short term initiatives, and make technical improvements in the existing benefits delivery system. In 1990, the Reagan budget requests funding for six short-term initiatives, which will greatly enhance services to veterans by automating manual processes.

One of these technical improvements is the continuation of the paperless file project. The prototype system, which includes the utilization of optical disk storage rather than paper files, is being used for the processing of Montgomery GI Bill education benefits. By eliminating the need to search for paper files, the VA can process claims and respond to veterans' inquiries in minutes rather than days. VBA's efforts in this area were recognized as the "Innovative Solution of the Year" by the Management Information Systems Week, a national trade publication. The 1990 Reagan budget includes nearly $3.8 million to evaluate the cost effectiveness of having the private sector manage and resell approximately ten percent of the VA's property inventory.

The 1990 Reagan budget request for the National Cemetery System of $48.8 million and 1,238 FTEE is $3.2 million and 35 FTEE above the 1989 level. The budget request for the National Cemetery System will provide the resources necessary for an estimated 60,500 interments (a 2,000 increase from the 1989 level); the maintenance of over 1.8 million gravesites (a 48,800 increase from the 1989 level), as well as resources for the Northern California cemetery which is scheduled to open in 1991. Personnel for the maintenance of the cemetery in Arizona are included in the 1,238 FTEE request.

In addition, the Reagan budget requests $4.4 million to continue the Grants for the Construction of State Cemeteries. It is estimated that these resources will allow at least four states to participate in this program in 1990.

The Reagan budget requests $205.9 million and 3,459 FTEE for General Administration. This represents a decrease of $6.9 million and 460 FTEE from the 1989 level. The primary reason for the reduction is that, in 1990, the Office of Inspector General becomes a separate appropriation. The 1989 resource level includes $20.5 million and 377 FTEE for the Office of Inspector General.

Included in the Reagan budget is $1.9 million to upgrade and expand the Austin DPC system. The increase in computer capacity is necessary to support future demands on the system resulting from an increased reliance upon on-line ADP systems.

In other ADP initiatives, the VA is requesting funds to continue the development of the Financial Management System (FMS); the Personnel Accounting and Integrated Data Systems (PAID) and begin the development of the Management and Decision Support Systems (MADSS).

A total of $1.7 million and 28 additional FTEE are requested in the Office of General Counsel for anticipated workload resulting from judicial review legislation.

Finally, in 1990, the Reagan budget requests $22.2 million and 397 FTEE for the Office of Inspector General. As a result of Public Law 100–504, the Office of Inspector General will be funded in a separate appropriation in 1990. The 397 FTEE level, which represents a 20 FTEE increase over the 1989 estimated level, is in accordance with the guidelines stated in Public law 100–527.

MEDICAL CARE

The fiscal year 1990 Reagan budget is requesting $10.7 billion for direct medical care, an increase of $198.9 million over the appropriated level for fiscal year 1989, with an average Federal employment level of 186,194 in the health care system and an additional 2,929 staff hired by contract.

The fiscal year 1990 Reagan budget will allow the VA to provide quality health care to an estimated 1.2 million inpatients and for 23 million outpatient visits in a nationwide medical care system.

The Reagan budget provides for the effects of expected inflation, for the funding and staffing requirements associated with opening new facilities, for increased payroll costs, and for several new and expanded initiatives. The initiatives involve areas such as: a $61.6 million increase for emphasis on AIDS patients and universal precautions for high-risk medical employees; a $50.9 million increase for 423 additional extended-care nursing beds; $17.6 million in net savings from the Decentralized Hospital Computer Program (DHCP); $1.6 million enhancement of treatment for Post-Traumatic Stress Disorder (PTSD) program; and $1.8 million for VA Learning Opportunities Residency (VALOR) program which is a recruitment tool to increase the number of registered nurses in hard to recruit clinical areas.

The Reagan budget also includes legislative proposals saving $86 million that would: (a) expand upon current law by authorizing reimbursement from private health insurers for treating non-service-connected medical conditions of insured veterans who have 0 percent to 20 percent service-connected disabilities yielding $62 million in receipts; (b) require veterans who do not have service-connected disabilities and who are in the middle or higher income categories to make nominal copayments for outpatient visits ($5-$10), outpatient prescriptions ($3-$5) and a $9 per-diem payment for inpatient treatment generating $24 million in receipts; (c) raise the limit on authorized dental treatment that can be performed without a second opinion from $500 to $1,000, as well as permit dental treatment in certain instances on an outpatient basis that is currently performed on an inpatient basis, saving $707 thousand.

MEDICAL AND PROSTHETIC RESEARCH

The 1990 Reagan budget request for Medical and Prosthetic Research is $197.3 million and 4,106 FTEE, a decrease of $12.9 million and 616 FTEE from 1989, returning the program to the funding levels just above those for fiscal year 1985 through fiscal year 1988. Funding is being requested for medical research in the areas of heart disease, schizophrenia, spinal cord injury, diabetes, cancer, aging, alcoholism, and an increase for AIDS. There is also support for related problems of Vietnam-era veterans, former prisoners of war and female veterans.

Funding is also being requested to continue support for rehabilitation research in the priority areas of prosthetics/amputations, spinal cord injury, and sensory aids.

MEDICAL ADMINISTRATIVE AND MISCELLANEOUS OPERATING EXPENSES (MAMOE)

The 1990 Reagan request for this program is $48.5 million, an increase of $0.6 million over 1989. Staffing would be reduced 6 FTEE from the 1989 level of 595 FTEE. The Health Professional Scholarship Program would be funded at a slightly higher level than 1989.

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

The 1990 Reagan request for this program is $42 million, the same level as 1989. This funding provides for 760 new nursing home beds and 326 domiciliary beds. These funds will allow the VA to continue shifting the mix of VA-sponsored care towards cost effective state nursing home alternatives, while expanding the total amount of nursing care available to veterans.

CONSTRUCTION

The 1990 Reagan request for the construction appropriations is $487.6 million. Of this amount, $365.8 million is for major projects at medical centers, regional offices and national cemeteries.

Major construction funds are proposed for eleven medical facilities, including two replacement and modernization projects—construction funds for modernization of the Newington, CT facility and the new facility at Palm Beach, FL. Also requested are funds for a Fire and Safety Improvements Project at the Waco, TX facility; renovation of medical buildings at the Salt Lake City, UT facility; construction of a new psychiatric building at the Columbia, SC facility; construction of an Outpatient Clinic at the Dublin, GA facility; and a joint venture with the Department of the Air Force for construction of a new medical facility at Nellis Air Force Base.

Funding is also included for additional gravesite development at the Jefferson Barracks National Cemetery and the Fort Snelling National Cemetery.

For minor construction, the 1990 Reagan request is $114.7 million. The fiscal year 1990 budget proposes that the ceiling for minor construction projects be increased from $2 to $3 million. Minor construction includes a General Administration limitation of $45.1 million.

In fiscal year 1990, the Reagan budget requests $7.1 million in new budget authority for the Parking Garage Revolving Fund to be used for the new parking garage that is planned for construction in connection with the new Palm Beach VA medical center.

This hearing also gives us the opportunity to state our continuing support for the proposed change to the HUD-Independent Agencies Appropriations Bill which would exclude the medical care program from the general prohibition that precludes all agencies funded in that bill from obligating funds justified for personnel compensation on non-personnel activities. In shortage occupations, such as nursing, VA is not always able to hire the projected number of staff in a given year. To make

up for this staffing shortfall, the VA contracts for services. The prohibition in the HUD appropriations bill, however, prevents VA from shifting funds that are no longer needed in the personnel compensation area (for staff on the VA payroll) to the non-personnel activities from which contracts are paid. The result is to short change other non-personnel activities such as capital equipment and facilities activations.

CLOSING

Madam Chair, in closing, we are committed to the accomplishment of the VA's mission to provide veterans the care, support and recognition they have earned in service to this Nation. Our budget request reflects both this commitment to meeting the needs of our veterans as well as a concern for fiscal restraint. This concludes my introductory statement.

My staff and I will be pleased to discuss the details of this request and answer your questions and those of the Committee Members.

STATEMENT OF JOHN A. GRONVALL, M.D., CHIEF MEDICAL DIRECTOR, VETERANS HEALTH SERVICES AND RESEARCH ADMINISTRATION, DEPARTMENT OF VETERANS AFFAIRS

Madam Chair and Members of the Committee:

I am pleased to be with you today to review the 1990 budget request for the medical programs of the Department of Veterans Affairs. Since the Bush Administration's budget proposals for 1990 use the Reagan budget as a starting point for the negotiations between the Administration and the Congress, I will describe them to you. This Department along with other government agencies is operating in a time of budget constraints. However, the Veterans Health Services and Research Administration (VHS&RA) request will allow the VHS&RA to provide quality health care to veterans whose care VA is obligated to provide by law. The Medical Care request for 1990 is $10.7 billion and 186,194 average employment, an increase of $199 million above the enacted 1989 level. We estimate this request will support approximately 1.2 million inpatients treated and 23.0 million outpatient visits.

The 1990 budget request includes management and productivity initiatives designed to improve the effectiveness of the use of existing resources. These initiatives assume productivity improvements; take advantage of ADP technology including continued expansion of DHCP and a supply management system; procurement savings; centralized control of the CHAMPVA program; improvements in payroll and accounting automation systems; privatization under OMB Circular A-76; reductions in occupational injuries and illnesses; and, an internal redistribution of resources.

Programmatic initiatives include continuation of planned conversions of hospital to nursing beds; funding for AIDS clinical programs such as direct patient treatment, prevention programs and implementation of universal precautions; establishment of four inpatient programs and one outpatient Post Traumatic Stress Disorder (PTSD) program; a VA Learning Opportunities Residency (VALOR) program for recruitment of Registered Nurses in hard to recruit clinical areas; drug testing of 30,000 employees; the VA's share of the costs for the National Security and Emergency Preparedness (NSEP) telecommunications program; and transfer of the Prosthetic Center to the Supply Fund.

The Veterans Health Services and Research Administration (VHS&RA) extended care programs encompass a broad spectrum of care. One of the areas where the needs of the aging veteran will have a dramatic impact over the next few years is in the demand-for nursing home beds. One method of providing additional long-term care beds is to convert existing beds to nursing home care beds. In 1990, $19 million and 468 employees will be transferred from the hospital to the nursing home care activity for the conversion of 363 beds to nursing home care.

The 1990 budget provides $142 million and 1,415 staff for facility activations, including the activation of new nursing home beds just mentioned. Activated projects increase the quality of patient care through improved or expanded operational capabilities. Many projects include additional, or the expansion of, sophisticated specialized services and new high technology treatment modalities. These projects may involve construction of new space and include workload increases such as outpatient visits and expanded clinical support services.

A 1989 supplemental request for $303 million was forwarded to the Congress by the President on March 24, 1989. The supplemental request will allow the VHS&RA to continue to provide care at the current level without reducing employment during the remainder of this fiscal year. An additional $11 million is proposed to be

made available for direct medical care by shifting funds from the beneficiary travel program. Finally, another $20 million is available for direct medical care due to lower than expected 1989 costs in the CHAMPVA program. Enactment of the VA supplemental request would bring the total increase in 1989 for direct medical care to $334 million.

The 1990 request for Medical Administration and Miscellaneous Operating Expenses is $48.5 million and 589 employees, an increase of $632 thousand over the enacted 1989 appropriation. This level continues support for the Health Professional Scholarship Program at current levels and estimates a one percent productivity adjustment in the Medical Administration program.

In 1990, a staffing level of 4,106 FTEE and $197.3 million are requested for VA research programs. This level represents a decrease of $12.9 million and 616 employees below the 1989 enacted appropriation including 427 employees associated with reduced reimbursements. The budget anticipates that approximately $5 million in research funding from non-VA sources will be accomplished through the Medical Center research organizations being formed under the provisions of Public Law 100-322.

The $42,000,000 requested for the Grants for Construction of State Extended Care Facilities in 1990 will continue the Department's commitment to provide additional nursing home and domiciliary facilities to veterans through a cost-effective alternative to VA-owned facilities. The appropriation will provide for six projects with 760 additional nursing home beds and 326 domiciliary beds.

We are also requesting $500,000 for Grants to the Republic of the Philippines in 1990. This grant supports the maintenance and upkeep of the Veterans Memorial Medical Center physical plant and facilities.

This concludes my opening statement Madam Chair. I will be pleased to answer any questions you or members of the Committee may have.

STATEMENT OF RAYMOND J. VOGEL, CHIEF BENEFITS DIRECTOR, VETERANS BENEFITS ADMINISTRATION

Madam Chair and members of the subcommittee, I am pleased to present the Veterans Benefits Administration (VBA) fiscal year 1990 appropriations request. VBA administers an integrated program of veterans benefits activities. The 1990 request for $16.8 billion represents fifty-nine percent of the VA's $28.6 billion in appropriation requests.

Funds for our Compensation, Pension and Burial programs are the largest segment of the department's budget. Our 1990 request, a total of nearly $15.4 billion in appropriations, will provide an average monthly compensation benefit of $372 for more than 2.5 million veterans and survivors; assist over 1.1 million veterans and survivors with a monthly pension income of $298 and allow us to continue to maintain a comprehensive burial assistance program.

The budget anticipates a cost-of-living increase of 3.6 percent, effective December 1, 1989, at a cost of over $318 million. Legislation will be submitted to index future compensation and clothing allowance benefit increases to the annual change in the Consumer Price Index. The Reagan budget also proposed changing the eligibility for a burial plot allowance to the same criteria used for the basic ($300) burial allowance, effective October 1, 1989.

Our request for the Readjustment Benefits appropriation is $434.1 million and will provide educational assistance to 130,400 veterans and dependents; 22,700 veterans in vocational rehabilitation training, and 78,600 veterans and servicepersons training under the new G.I. Bill. In addition, $137 million will be transferred into this account from the Department of Defense and the Department of Transportation for benefit payments to 117,400 reservists and supplemental benefits to 44,500 servicepersons and 34,100 veterans, training under the all-volunteer force educational assistance programs. Another 1,060 veterans will be assisted in the purchase of specially adapted homes and automobiles.

The Loan Guaranty program will require $453 million to fund program operations consisting primarily of property acquisition costs and claim payments. These two items comprise nearly 85 percent of the program's expenditures.

In recognition of the favorable financial terms Federal credit programs provide borrowers, this budget also requests Subsidy (Grant) Equivalent appropriations of more than 1.2 billion for Loan Guaranty, Direct Loan, and Vocational Rehabilitation Revolving Fund loan programs. The subsidy calculation for Loan Guaranty is based on a 1-percent funding fee extension.

VBA is requesting $548.8 million and 12,100 FTEE in 1990 which is an increase of $33 million in new budget authority but a reduction of 550 FTEE from our current estimate for 1989. The employment reduction reflects a one-time transfer of 227 FTEE to the Veterans Health Services and Research Administration.

Included in VBA's request is $25.1 million to support the Twelve Point Plan for Modernization. The major thrust of the plan in 1990 will be the implementation of the short-term initiatives. In addition, VBA will prepare a comprehensive functional requirements document for the first stage of the long-term solution, identify alternatives to satisfy this requirement, and develop an implementation plan.

VBA's request includes $921,000 to establish an Adjudication Academy which will provide an intensive training program for new adjudicators. Approximately 120 adjudicators will be trained in 1990. VBA also requests approximately $3.8 million to begin a property management pilot project which will test the cost-effectiveness of contracting with private real estate firms to manage and dispose of acquired properties.

Madam Chair, this concludes my statement. We will be glad to discuss our budget with the subcommittee.

STATEMENT OF ARTHUR S. HAMERSCHLAG, DEPUTY DIRECTOR,
NATIONAL CEMETERY SYSTEM

Madam Chair and members of the Subcommittee, I am pleased to be appearing before you today to present testimony concerning the budget request for the National Cemetery System. Since the Bush administration's budget proposals for FY 1990 use the Reagan budget as a starting point for the negotiations between the Administration and Congress, I will describe them to you.

Introduction

The National Cemetery System originated during the Civil War, when President Lincoln and the Congress provided that permanent burial grounds would be set aside for soldiers who died in service to their country. In 1973, Public Law 93-43 formally established the National Cemetery System as part of the Veterans Administration. Jurisdiction over 82 cemeteries was transferred from the Department of the Army to the VA. These were combined with 21 cemeteries previously operated by VA medical facilities, to form the basis of the System as we know it today. Arlington National Cemetery, the cemetery at the Washington Soldiers' and Airmen's Home, and various post cemeteries remained under the jurisdiction of the Army. Since then, 10 cemeteries have been added to the System, bringing the total to 113 cemeteries within the National Cemetery System.

The National Cemetery System has a three-fold mission, established in law:

o Operation of 113 national cemeteries and 32 burial plots and monument sites located throughout the United States and Puerto Rico. Present and former members of the armed services with a discharge other than dishonorable; their spouses, widows, or widowers; and certain dependent children are eligible for burial in any national cemetery with available grave space.

o Providing government markers upon request for the graves of veterans in private cemeteries, and for all graves in national and state veterans cemeteries. Memorial markers may be provided for veterans whose remains were never recovered, lost at sea, donated to science, or otherwise not available for burial.

o Administration of the State Veterans' Cemetery Grants program. Matching grants are provided to states for the development or improvement of state owned and operated veterans cemeteries.

In Fiscal Year 1990, the National Cemetery System will also assume responsibility for administering the Presidential Memorial Certificate program. The goal of the National Cemetery System is to conduct veterans' memorial programs with dignity, effectiveness and compassion, and to assure that the national cemeteries are maintained as fitting shrines to all veterans who have served their country. Community participation in this important part of our nation's heritage is encouraged.

President Reagan's FY 1990 Request

The Reagan administration's Fiscal Year 1990 request includes $48,814,000 for General Operating Expenses, including an average employment of 1,238; $4,356,000 for grants for the construction of State Veterans' Cemeteries; and $15,480,000 in construction funding.

The General Operating Expenses appropriation request includes initial funding for the activation of the new San Joaquin Valley National Cemetery as well as the operation and maintenance of the existing 113 national cemeteries. Obligation and employment estimates are included for operation of the National Memorial Cemetery of Arizona, but no funding is requested for the General Operating Expenses appropriation as the costs will be borne by reimbursements from the Compensation and Pensions appropriation and the State of Arizona, under the provisions of Public Law 100-322.

President Reagan's Fiscal Year 1990 General Operating Expenses request represents an increase of $3,195,000 and 35 average employment over the Fiscal Year 1989 current level. The National Cemetery System annual workload is estimated to increase in Fiscal Year 1990 to 60,500 interments, 1,823,600 gravesites maintained, and 291,000 headstone and marker applications processed.

The construction request contained in the Reagan budget includes $5,000,000 for minor construction projects and $10,480,000 for major projects. Major projects requested include construction funding for gravesite development projects at Jefferson Barracks, Missouri and Fort Snelling, Minnesota; funding for Facility Development Plans and Capitol Facilities Studies at selected cemeteries; as well as planning or design funds for gravesite development projects at Fort Sam Houston, Texas; Riverside, California; and Fort Logan, Colorado.

The FY 1990 Reagan budget requested $4,356,000 for Grants for State Veterans' Cemeteries. This level should provide ample resources to meet the demand from the states for grant funding.

Accomplishments

In December 1988, an agreement was concluded with the State of Arizona regarding the transfer of the Arizona Veterans Memorial Cemetery to the National Cemetery System. The addition of this cemetery to the National Cemetery System provides the NCS with the opportunity to better serve the needs of veterans and their families. Operational responsibility was assumed on April 1, 1989. An official transfer ceremony is planned for April 15, 1989.

Progress continues to be made on construction of the new San Joaquin Valley National Cemetery in northern California. Preliminary plans were completed last September, and the working drawings contract was awarded in January 1989. We currently estimate that construction will be completed in May 1991. Another new cemetery, the Florida National Cemetery, in Bushnell, Florida, was opened in May 1988.

At the beginning of FY 1989, four cemeteries were using graveliners. These cemeteries are Calverton, New York; Riverside, California; Massachusetts National Cemetery; and Florida National Cemetery. A graveliner is a rigid outer container, typically made of concrete, that is designed to prevent graves from sinking. They are in common use in the private sector. A study by the A/E firm of Clarke & Rapuano Inc. has outlined a methodology for determining at individual cemeteries whether graveliners are cost beneficial. The National Cemetery System will be evaluating its most active cemeteries to determine whether graveliners will be cost beneficial. So far in 1989, five new cemeteries have begun using graveliners. These cemeteries are Houston, Texas; Fort Sam Houston, Texas; Fort Snelling, Minnesota; Fort Logan, Colorado; and Willamette Oregon. Public Law 100-322 authorized graveliners to be charged to the Compensation and Pensions appropriation.

Future Development

In June 1987, a study of the National Cemetery System was submitted to Congress in accordance with Public Law 99-576. As a result of that study, a policy review was conducted regarding meeting future demands upon the National Cemetery System. It was decided that the regional concept would remain the policy of the National Cemetery System. Expansion under the regional concept was completed with the opening of Fort Mitchell in Alabama, and no 1990 or future year funding is requested for the planning, design, or construction of new cemeteries. Under the regional concept, veterans' future burial needs would continue to be met by phased development of presently undeveloped land in existing national cemeteries, expansion of existing national cemeteries through acquisition of adjacent land where practical, and timely replacement when regional cemeteries are expected to close, ensuring that one large national cemetery is open in each of the 10 standard Federal Regions and in the Washington, D.C. area. We will also continue to encourage expanded participation in the State Veterans' Cemetery Grant program.

However, consistent with Congressional guidance, Environmental Impact Statements are under way regarding possible sites for new cemeteries in the Albany, New York; Cleveland, Ohio; Chicago, Illinois; and Seattle/Tacoma, Washington areas. Advertisements have been published for prospective sites in those areas and for consultants to prepare the statements. Award of the EIS contracts is expected by the end of April 1989. If all four Environmental Impact Statements are completed on time, they will be reviewed by the Secretary of Veterans Affairs by the end of September 1990.

Workload and Initiatives

National Cemetery System workload has grown steadily in recent years. Between Fiscal Years 1983 and 1990, annual interments have increased 35.4 percent and gravesites maintained have increased 20.5 percent. Despite these increases, average wage grade employment has increased by 4.1 percent, illustrating the strides we have made to become more productive and efficient. Of the requested 35 increase in average employment, 13 are for increased workload in existing cemeteries, 8 are for staffing the new National Memorial Cemetery of Arizona, 4 are for activation of the San Joaquin Valley National Cemetery, and 3 are for employing automated data processing support personnel at each National Cemetery Area Office. Another 7 result from the transfer of the Presidential Memorial Certificate program to the National Cemetery System from the Veterans Benefits Administration.

In 1989, the Department has reduced the National Cemetery System budget by $1,745,000 from the original estimate by a reprogramming of budget authority to provide additional payroll funding to the Veterans Benefits Administration. Though the original 1989 request for the National Cemetery System had included $1,097,000 for graveliners, which now are funded from the Compensation and Pensions appropriation, we have reduced planned equipment purchases and maintenance projects in 1989 in order to make funds available to support the payraise and the reprogramming.

Major renovation projects have been undertaken recently at two national cemeteries. A $1.3 million minor construction project at Long Island National Cemetery, New York, was awarded in 1988 to fill in low areas, raise and realign headstones, add topsoil, and provide seed and weed control. Contract completion is expected in 1990. A similar contract is out for bid at Golden Gate National Cemetery, California, with an estimated cost of $400,000. This will be a significant first step in the complete grounds renovation of this cemetery. An additional estimated $150,000 in 1989 General Operating Expenses funding will be spent at Golden Gate for gopher control and headstone cleaning. The National Cemetery System has been working on these problems for a considerable period of time. We will continue to undertake comprehensive renovations as needs develop and funds permit.

Summary

As set forth in this testimony, the National Cemetery System is constantly striving to improve and refine its operations. The necessarily constrained budgets of recent years have challenged us to increase our efficiency and productivity. Our mission is an important one, and serves the living as well as the deceased. As reflected in our credo, we are all dedicated to, and take great pride in, carrying out this mission.

Madam Chair, I would like to thank you for the opportunity to appear here today, and I would be pleased to answer any questions that you or other members of the Subcommittee may have.

Senator MIKULSKI. The Chair wants to note that Senator Phil Gramm of Texas has now arrived to take part in our committee's deliberations.

1990 BUDGET REQUEST

Mr. Derwinski, my questions during this first round are going to focus a bit on medical care, which we know is one of the most pressing crises facing the VA.

In light of the funding shortfalls in the medical care program last year, could you tell me how much you are requesting for medical care/health care in fiscal 1990 and how that compares to your original request to OMB?

Mr. DERWINSKI. Dr. Gronvall has that in detail.

I should add, by the way, that while OMB—I just want to say for the sake of OMB—while they have not been as forthcoming as I might like with dollars, we have a good line of communication with them. We are stressing to them, in fact, the very point you made, that the small increases we received in our budget for medical care can't keep up with the rising cost of medical care nationally, and there is an unusual inflationary rate in the medical care increases, and we, therefore, are in need of special funding for medical care to keep up with that unique cost problem in the medical field.

Senator MIKULSKI. Could you tell me how much you requested from them?

Mr. DERWINSKI. Yes.

Dr. Gronvall.

Dr. GRONVALL. Yes, Madam Chair. On September 1, the VA's request to OMB for the 1990 medical care budget was for a figure of $11,860,350,000 and for an FTEE level of 198,483.

We went through the OMB review, passback, appeal, and a Presidential review board, and the final executive branch decision on our request was for a dollar request of $10,741,431 and an FTEE level of 186,194.

Senator MIKULSKI. So OMB cut you about $1 billion in your request?

Dr. GRONVALL. Correct.

MEDICAL CARE SHORTFALL

Senator MIKULSKI. Well, my question then, Mr. Secretary, will be what are the implications of that?

I have heard real horror stories from veterans being treated at the VA hospitals, not because of lack of care and compassion by staff, but due to shortage of supplies, like amputations being performed and then not having prosthetic devices, canes and crutches not being available. One of the articles talked about a Montgomery County, AL, VA medical center where patients were being sent away only to be diagnosed at a private hospital as having blood poisoning.

Veterans have now even turned to writing Ann Landers. Yesterday there was a column in the newspaper. This was signed by E.A. from Oakland, CA, where in a letter to Ann Landers he said, "Supplies are so short in many hospitals that nurses are scrounging the

little souvenir bars for soap and shampoo to bring to VA patients," and then it goes on with one story after another.

But we wonder where we are in being able to deliver quality medical care. What are the implications of OMB's $1 billion cut in terms of a dedicated staff being able to deliver quality service?

BUDGET LEVELS—1989 AND 1990

Mr. DERWINSKI. Let me answer that in a general way, and Dr. Gronvall has any details you might need.

Let me say that one of our concerns in this unfortunate budget crunch that we face is that we maintain a uniformity of service across the country wherever possible. So one of the challenges we face is that because the patient demand on our facilities may vary because of regional and local factors, that the quality and availability of the medical care to the degree possible should be uniform.

The second, we did try to address the budgetary shortfall of course by both an 1989 supplemental request and a 1990 amendment, but as you recall, some months ago I corresponded with you, Madam Chair, and the equivalent House and Senate committees authorizing and appropriating. We asked for an amendment for 1990 over and above the President's request of approximately—I think it was $512 million for medical care. That was what we thought was a good, logical, let's say, workable figure that we might be able to extract in the agreement between OMB and the Hill on the total budget package.

Senator MIKULSKI. Well, Mr. Secretary, if we enact the 1989 VA medical care supplemental but the President doesn't request more funds for fiscal 1990, the fiscal year 1989 budget for medical care will be about $100 million more than the fiscal 1990 request.

How would that $100 million cut affect the medical care program for 1990?

It seems that we are just digging ourselves into a hole here.

Mr. DERWINSKI. Well, we are falling behind the curve in the rising area of medical costs.

But, Doctor, I think if you would— putting aside all the standard statistics, if you could relate to the committee the way we have been trying to treat this in terms of our, let's say, national responsibilities as opposed to being——

Senator MIKULSKI. And please don't misunderstand the point of this question. It is not to play "I gotcha" with OMB or to place you in a difficult position. You honestly had in your mind, you and your team, our good physician here, what you thought you needed.

You don't ask for a billion dollars because you want to add ruffles and flowers. I am sure this was important, needed care, either in equipment, supplies, a variety of other things, and we are, therefore, trying to anticipate this because I happen to think government by supplemental is not the way to go. I can't think of anything more demoralizing to a medical director or a nurse wondering when Congress is going to act on a supplemental.

Dr. GRONVALL. Madam Chair, I agree with that comment very much, as has the Secretary.

When we started into the current year, fiscal 1989, we reported to the Congress that we were about $635 million short of the level

that would have been necessary to maintain the fiscal 1988 level of staffing and operations. It was shortly after that that the new Secretary requested formally the $300 million supplemental. The administration has joined in that request.

We took steps early this year to make some internal realignments to try to maintain the highest possible level of operation through the first 6 months of the year. The $300 million supplemental would essentially maintain us at our current operating level for the remainder of this year.

We have had to take steps this year to cut back on the quantity of care in order to try to protect quality. So we have used the congressional statutory eligibility criteria and cut back on quantity. We have cut back about 3 to 5 percent in the number of veterans we are treating in our hospitals and outpatient clinics. If we receive that supplemental, as I said, we will continue at about this current level of operation. Continuation of the current level of operation into 1990 would require some $500 million above the President's request. That is the figure the Secretary is seeking as a budget amendment for 1990.

Senator MIKULSKI. So you are going to need a $500 million budget amendment just to stay even?

Dr. GRONVALL. Correct.

Senator MIKULSKI. Isn't that what we are stepping up to at this point?

Dr. GRONVALL. We have been asked what the 1990 figure would be if we build back to staffing and operating levels experienced last year, fiscal 1988, and we have supplied that figure. It is about $800 million above the President's request for 1990.

BUDGET AMENDMENT

Senator MIKULSKI. Well, I understand, Mr. Secretary, that you asked the White House for a $512 million amendment to the fiscal 1990 budget explicitly for medical care.

What is the status of that request, and do you expect any action from the White House on this?

Mr. DERWINSKI. In addition to the funds that are in the special negotiating category in which we think we could justify up front our role in being allocated those funds, we are still hopeful that whatever final agreement is reached by OMB with the Congress will give us that necessary priority.

You made a comment earlier about the practical nature of our request. There is no fat in the—I think it was $514 million we asked for. There is absolutely no fat or luxury in that. That is the very hard, calculated, practical minimum that we need, and we could justify every bit of it.

Senator MIKULSKI. I am sure you can.

My time has expired.

Senator Gramm.

Senator GRAMM. Madam Chair, thank you.

Ed, it is good to see you before the committee.

As I noted before you came, Madam Chairman, when Ed was in the House, he made all these decisions by himself, and now that he is a big time bureaucrat, he has got all these lawyers and these

staff people, he will probably never make another good decision in his life. [Laughter.]

Ed, I don't really have any questions. I would just like to say that the budget agreement which is being ratified now in the Budget Committee on the sixth floor— and I am about to run up there to try to protect the jurisdiction of this committee because as I look at this committee's jurisdiction as a new member of the Appropriations Committee, this is a tough subcommittee and we have a lot of very important programs—and the 302(b) allocation which allocates as one lump of money is critically important to us because it puts us in a position of having to make do with that amount of money, and we are having to make do in programs that are vitally important, such as veterans programs, programs that are vitally important to the future of America, such as the space program, our housing programs that are important to people that are important to people that are in need of those services.

And I would just like to say that the budget agreement that has been reached provides about $2.5 billion for domestic spending above current services, and that is substantially above the level that was recommended by President Reagan and President Bush, and so I think it is vitally important that we fight to see that part of that money does go to fund the programs that you have proposed. There is plenty of money there for that purpose. The problem is setting it as a priority and competing against all the other potential uses.

I believe the American people strongly support veterans programs and strongly support the space program and support well-targeted housing programs. It is bringing that to bear in the congressional debate that I see as the objective.

I want to say in advance I look forward to working with you in this new position. I think that we are in a position now as more and more of our World War II veterans turn 65 of having potential growths in demand.

You are well aware of my concerns in my State. Laredo being an area that is relatively isolated, 145 miles from any access to veterans medical care, we have been at the top of the priority list on a VA outpatient clinic. We are talking about a six-person operation. But for 11,400 veterans that are 145 miles away from medical care it becomes a very important issue.

So I don't want to ask you any question about a specific project here, but I will be looking to work with you on that because I think it is a legitimate need, and I hope you will keep me informed as to your priorities as we work in this budget process.

I do believe the potential is out there to get the money to fund some of these programs that you believe and I believe we need, and I look forward to working with you in that effort.

Mr. DERWINSKI. Let me say, Senator, that having served in the Congress as long as I did, I understand the logical interest that the Senate member has in projects and services in his State just as well as I understand a House member's focus in his district, and I am sensitive to it, and that is why we want to maintain maximum communication, and in this time of budget difficulty we want to sit down in advance and hammer out understandings that give us a cooperative relationship.

In fact, I hope to see you later this week on those specific Texas issues you are concerned with.

Senator GRAMM. Thank you, Mr. Secretary.

Thank you, Madam Chair.

Senator MIKULSKI. Well, thank you, Senator Gramm. We know that you are an important player on the Budget Committee.

And we also know that you face some issues in Texas, particularly around veterans foreclosure, HUD foreclosures, and so on.

The Chair will now recognize Senator Leahy.

CHRISTOPHER WRIGHT

Senator LEAHY. Thank you, Madam Chair.

Mr. Secretary, I will have inserted in the record a number of questions regarding VA researchers, mobile clinics, and medical and prosthetic research. I mention them because they are areas that I have had a lot of concern with over the years. Last year, I offered language and additional money for VA researchers. I would hope that you and your staff will closely review my questions and concerns.

If you will forgive me for breaking with tradition and going to a more parochial issue, something that I am sure you have rarely seen a member do during your years up here. Senator Jeffords and I recently wrote to you regarding a constituent, Christopher Wright, who was involved with the development and testing of the first atomic bomb. Mr. Wright is now suffering from an advanced case of non-Hodgkin's lymphoma.I hope you could take a look at our letter. I would be happy, as I am sure Jim would, to sit down and talk with any member of your staff about it.

Mr. DERWINSKI. I will have our legislative liaison people give me that file, and I will come up and see you personally on it.

WHITE RIVER JUNCTION

Senator LEAHY. Thank you, sir.

I also want to thank you for your efforts on behalf of the VA medical center in White River Junction, VT. It is important not just to me, but an awful lot of veterans and their families both in Vermont and New Hampshire. The problems at White River Junction probably typify problems at rural VA centers. The aging rural veterans population often can't afford to go to Boston or New York. A spouse or family members may not be able to visit a veteran in a hospital outside Vermont. I want to know if the VA is going to be able to adequately fund existing programs at the VA hospital in White River Junction for fiscal year 1990.

Senator MIKULSKI. Before Secretary Derwinski responds, Senator Leahy, I am going to leave now for the floor to vote. Go ahead with your questions for as long as you need—I would like you to just assume the Chair.

Senator LEAHY. OK. I will not be able to come back after the vote because I have got an Agriculture Committee meeting.

Senator MIKULSKI. That is why I would like you to keep going until you can, then get over to make the vote.

Senator LEAHY. Great.

Senator MIKULSKI. And why don't we just give Senator Leahy as much time as he needs, and then that way I can be back and we can keep it going.

Senator LEAHY [presiding]. Mr. Secretary?

Mr. DERWINSKI. Dr. Gronvall has the exact information you want, but let me say that I received a very practical education in the special interest and needs for service to veterans in rural areas when I was going through my confirmation process. Senator Mitchell pointed out the needs in Maine, especially in rural areas.

So I want you to know, Senator, that from a very logical standpoint I am aware of balancing the totally different urban pressures that we have on our system with the logical needs in rural areas, and that is why I made the point earlier to the chairman that we are going to try to stress the balance and equitable distribution of our medical care to veterans across the country.

We think that we have to have a uniform, really equal service, and, therefore, we are going to give the necessary attention to areas like Vermont, New Hampshire, North Dakota, Montana, States that have totally different medical problems in the veterans field than, say, Manhattan, Chicago, or Los Angeles.

Senator LEAHY. You understand, Mr. Secretary, I am not suggesting we get in an "either/or" situation. I do not want to deprive the legitimate needs of veterans in the urban areas, even though I am not from a State that has urban areas.

But the economies of scale are different in rural and urban areas. I would urge you and everybody in your Department to realize that a model that works for an urban area might not for rural area, and vice versa.

Mr. DERWINSKI. I understand. As a matter of fact, the difference really is very often in the unique needs of the patients rather than the overall need. The overall need is really the same.

But Dr. Gronvall has specific information.

Dr. GRONVALL. In regard to the specific program actions at White River Junction, we have made some special funding allocations to maintain programs there. We have communicated that to you, of course.

Your question had to do with whether we would have the funding to continue those programs in 1990. I really would put that under the umbrella of the general response that I gave to the Chair of the committee. If we receive the requested supplemental this year and then receive the $512 million increment in 1990, we would maintain the same operating level we currently have.

If our appropriation for 1990 is below that level, we will be forced again to look at needs all across the country and further program reductions would be needed. Where they would be and how that would be done would be based on a review in the context of the actual appropriation received. So the answer to your question really depends on the level of our operating support for 1990.

Senator LEAHY. You understand that right beside my telephone I have your phone number and the Secretary's phone number, and I will probably be chatting with you as we go along on this. I periodically recall the needs of the people whom I represent.

Mr. DERWINSKI. Yes.

WHITE RIVER JUNCTION EQUIPMENT BACKLOG

Senator LEAHY. And I say that not being unaware of the fact that you are getting similar calls from people all over the country who also make strong arguments.

Despite the congressional add-ons I discussed earlier, the VA still has a real budget problem. In fact, I think the medical care situation is a massive time bomb. That bomb is ticking right down toward the very, very end, and I don't think the American public fully realizes how significant the situation is or just how much of a problem it is going to be.

The equipment backlog in the medical system is at a crisis point. For a number of years medical centers have been borrowing from their equipment accounts in order to remain solvent. You can rob Peter to pay Paul for only so long.

White River Junction needs to replace $0.5 million in equipment. I suspect that hospitals around the country are in similar situations.

Does your fiscal year 1990 budget proposal have funds to replace equipment? I think a number of hospitals have been borrowing from this account. Isn't it time we repay it?

Dr. GRONVALL. The 1990 request that the committee is now considering does include funds for equipment, but not at a funding level that would allow us to begin reducing the backlog of equipment needs.

CATEGORY B AND C WORKLOADS

Senator LEAHY. Well, that is one of the things you are going to have to start addressing in the future. You can borrow from equipment for just so long. It has got to be replaced.

I am also concerned about the caps the VA has placed on inpatient and outpatient levels for category B and C veterans. In a small hospital, again like White River Junction, that means not many B and C veterans are treated.

Is that cap going to stay the same way it is now? Are there going to be any changes in that?

Dr. GRONVALL. That action is partly unique to this year and represents what the Secretary referred to earlier; namely, an effort to look at the whole country and achieve an equivalent level of access to care for veterans across the entire country. So we took the first set of steps during this current year, 1989, based on the objective of achieving equity of access on a geographic basis. We redistributed some funds on a regional basis in 1989 and plan to do that again in 1990. The objective is that, by the end of 1991, category A, B, and C veterans, wherever they live in the country, will have an equivalent level of access to veterans health care.

Geographic equity can work, in essence, whether our budget is staying the same, going up, or declining. If our budget is adequate, then the whole country would have approximately the same ability to treat category B and C veterans. If our budget is not expanded, then I think by the end of 1991 category B and C veterans would largely be unable to have access to VA care anywhere in the country. So the goal of equity of access exists, in a sense, independent of the operating level established by our appropriation.

Senator LEAHY. I appreciate your candor. None of us want to hear the message, but I do appreciate your candor.

Dr. GRONVALL. Thank you, sir.

Senator LEAHY. I will hold us in recess, Mr. Secretary. The Chair will be back in just a few minutes, and I am going to go over and vote.

[A brief recess was taken.]

Senator MIKULSKI [presiding]. The subcommittee will resume its deliberations.

Mr. Secretary, I think we have indicated the committee's interest in health care and we could probably spend our entire deliberations just doing that.

I think if I could wrap up the sentiments of the Senators, we are getting calls from veterans in our own States concerned about the availability of care.

So we look forward, now that this budget agreement has been reached, to getting an allocation to provide VA with what it really needs because I do not want to do a supplemental next year, not because I don't want to serve veterans but because that is not the way to serve veterans, or maintain the morale of your staff.

Am I right in terms of the impact not only on the veteran, but the morale of the people who serve veterans?

Mr. DERWINSKI. For our own planning purposes, obviously, we would prefer if the final bill you are able to produce for fiscal 1990 is, in fact, such that we wouldn't have to come back for supplementals. I feel just sweating the final version of the 1989 supplemental is causing us all sorts of difficulty.

So we would do anything we could to cooperate with you, although we are limited in the sense that we are just one Federal department competing with others. But, frankly, yes, if you could hammer it all out in advance, God bless you, and we could do a much better job.

Senator MIKULSKI. Well, we need you to help hammer it out.

Mr. DERWINSKI. We will do anything we can to be of assistance.

REDISTRIBUTION OF LEVELS OF CARE

Senator MIKULSKI. Now, one of my concerns has to do with veterans in categories B and C, and my question goes to, given our fiscal considerations, how will B and C veterans be affected in 1990?

You are calling for a savings of $215 million in fiscal 1990 through something called redistribution of levels of care. What this means, as I understand it, is cutting back care to category B and category C veterans.

How many B and C veterans do you think will be affected by your proposal in fiscal year 1990?

Mr. DERWINSKI. Go ahead.

Dr. GRONVALL. Based on the request that is currently before the committee, my best judgment is that during 1991 the operating level we would achieve with 186,194 staff in our medical system would be such that most category B and C veterans would not receive care in the VA.

Senator MIKULSKI. Do you know how many patient visits less that would mean?

Dr. GRONVALL. If you take the total number of veterans applying to us for care, about 5 percent of the applicants are in category B or C. So on order of magnitude looking at the total applicant pool of veterans, something like 5 percent would be reduced.

Senator MIKULSKI. Do you have the number, Doctor?

Dr. GRONVALL. I have the actual 1988 number of veterans who applied for care. In fiscal year 1988 we had in category A 2,705,000 applicants for care; in category B we had 99,000; and in category C we had 80,000.

Senator MIKULSKI. Doctor, what is the primary type of care that the veterans at either A, B, or C level seek you out for? Is it acute care or is it primarily long-term care, or is it for health care services other than hospitalizations?

Dr. GRONVALL. Really, all of the above.

Senator MIKULSKI. But there must be themes, there must be patterns, there must be dominant needs.

Dr. GRONVALL. We could supply the proportion of veterans who come to us for acute hospital care, outpatient care, and long-term care. Out of some nearly 3 million individuals that we provide care to each year, veterans come to us needing all of those kinds of care.

Senator MIKULSKI. Yes, but who needs the most for what, Doctor?

Dr. GRONVALL. There is not a distinguishable pattern.

Senator MIKULSKI. Well, I would like you to tell us what the pattern is. You mean all people apply for the same type of services, that the number of people who apply for health care services other than hospitalization equals hospitalization and that same cohort is identical to those who seek long-term care?

Dr. GRONVALL. No. What I was trying to say is that there are not distinguishable patterns among category A, B, and C veterans who come to us for care.

Senator MIKULSKI. And then what is the pattern?

Dr. GRONVALL. Well, veterans come to us seeking care. They don't come applying for hospital care or outpatient care.

Senator MIKULSKI. Well, once you decide what care they get, Doctor, where are they most likely to get the category of service?

Dr. GRONVALL. Out of the 2.9 million veterans who applied for care in 1988, 24 percent received hospital care, 69 percent received outpatient care, and the number who received nursing home and domiciliary care in the VA was only about 1 percent of the total who applied.

Senator MIKULSKI. And, Doctor, how many—Mr. Principi, did you want to comment, sir?

Mr. PRINCIPI. Yes, Senator.

Senator MIKULSKI. Because you know what I am trying to get at, which is where we are trying to put our money.

Mr. PRINCIPI. Yes, Senator. I think clearly the trend is outpatient care. We had 23 million visits in 1988.

Senator MIKULSKI. And not in emergency rooms?

Mr. PRINCIPI. That is correct. Although inpatient care will still consume the main portion of our resources, clearly the increasing trend is our outpatient workload, and that is where we need to increase our resources.

Senator MIKULSKI. It follows the same thing as it would in a Catholic hospital, where now cataract surgery can be overnight or outpatient?

Mr. PRINCIPI. Yes, indeed, Senator.

Dr. GRONVALL. We are a part, of course, of the broader medical system, and if you look at the past several years, our outpatient work has expanded remarkably while the number of patients treated in our hospitals has increased very slightly year by year.

LONG-TERM CARE

Senator MIKULSKI. Now, Mr. Derwinski, Doctor, I am trying to understand the trend of how many people who were evaluated as needing long-term care were able to get it.

In Baltimore we have an excellent long-term care facility, Fort Howard, just an excellent deliverer of service, lots of voluntarism associated with the facility. They have an extensive waiting list and they don't have the beds to meet the demand in Maryland.

I would imagine that is not unique. It is not a criticism of Fort Howard. So of the folks that you evaluate as needing VA care, how many do you turn away in each category?

You just said only 1 percent of your service delivery is in long-term care, but is that due to limited capacity or to minuscule demand?

Dr. GRONVALL. That figure that I gave was the veterans cared for in VA nursing homes. In addition, we use community nursing homes on a contract basis and then the State nursing home system provides care for many veterans.

Senator MIKULSKI. You see, what I am trying to get at is Mr. Derwinski is going to have to work with you and others on the team to develop a strategic plan on health care for veterans.

Dr. GRONVALL. That figure sounds very small because it is a percent of a very large number of veterans who come to us, the vast majority of whom receive outpatient care.

Looking ahead toward the future and in view of the aging of our veteran population, the most difficult demand curve that we face will be the demand for long-term care and nursing home care because the World War II and Korea era veterans increasingly are in an older age group needing that kind of care.

Senator MIKULSKI. So, Mr. Derwinski, really what you need to be evaluating is increased outpatient care for substance abuse problems, as well as care that once required hospitalization, and the most intensive care, like eye surgery, which can now be done on an outpatient basis, and then long-term care.

Mr. DERWINSKI. That is right, and it is the trend in the medical industry as well. There is shorter hospitalization periods before and after surgery, but the aging veteran factor is the thing that is driving our interest in long-term care facilities.

Senator MIKULSKI. Really what you are saying is that the hospitals need to reevaluate their missions; am I correct in that?

And that is not going to happen overnight, just like your population doesn't happen overnight.

Dr. GRONVALL. Madam Chair, if I may, we have moved significantly in that direction and our planning and construction pro-

grams are moving exactly in that direction. Each time that we have a major project in one of our medical centers, a replacement or a major renovation, it typically ends up having fewer acute care beds than it used to have. That is a result of shortened length of stay and the ability to do more and more care on an outpatient basis.

At the same time, we have opened a good many new outpatient clinics. Other clinics are in the planning pipeline. We have also projected significantly increased needs for nursing home beds in the VA and community nursing homes and State home programs that we use.

So our planning is exactly consistent with that kind of redirection of the kind of care needed by the veterans who come to us.

Senator MIKULSKI. Mr. Principi.

Mr. PRINCIPI. Senator, I think you have focused on clearly the most critical issue facing the VA health care system in the decade of the 1990's and beyond, and that is clarifying our objectives and restating our mission so that we can indeed care for more veterans, which is our primary mission. We have a lot of secondary missions in VA health care, but our primary mission is veterans who come to us for care, whether it be outpatient, inpatient, or extended care, and traditionally the modality of care in the VA is not in sync with where we are today in modern medicine, and we are moving in that direction and we just have to move further and faster if we are going to stay ahead of the population. It is very difficult.

Senator MIKULSKI. Well, that is why I think the population should drive, if you will, the budget decisions.

The Chair notes that Senator Grassley of Iowa has joined the subcommittee, and, Senator, do you have either a comment or a question that you would care to pursue with Mr. Derwinski?

Senator GRASSLEY. First, permission to put a statement in the record, Madam Chair.

Senator MIKULSKI. Without objection, so ordered.

[The statement follows:]

STATEMENT OF SENATOR GRASSLEY

Thank you, Madame Chairman. We are hearing from every side that the budget constraints with which the Veterans Administration is faced have begun to have negative effects on veterans medical care.

These constraints have produced service cutbacks, although, for the most part, these involve category C veterans, who the Veterans Administration isrequired to serve only on a resource-available basis. Of course, as our constituents point out to us, if an individual has become dependent on the Veterans Administration for medical care, being deprived of that care cause hardship.

We, or at least this Senator, has begun to hear ofobsolescent equipment at some Veterans Administration medical centers. In fact, I would like to call the Secretary's attention to such a problem at the Iowa City Veterans Medical Center in my own State of Iowa.

I have received letters from medical faculty at the University of Iowa complaining that they believe it may be difficult for veterans medical centers to attract highly qualified university faculty to appointments at VA medical centers because they are not sure they will be able to practice the high level of medicine they are committed to practicing.

These are serious concerns, Madame Chairman, and I am looking forward to the perspective of the new Secretary of the new Department of Veterans Affairs on these matters.

Senator GRASSLEY. Thank you very much.

And, second, before questioning, to congratulate my former colleague in the House of Representatives, Mr. Derwinski, for his new responsibilities as the first Secretary of Veterans Affairs. I know that you are going to do a very good job because you were very thorough as a Congressman.

I suppose the joke between you and myself is this, that, you know, you aren't going to be able to travel as much as Secretary of Veterans Affairs. It is all domestic as opposed to the junketing you did as a Congressman.

Mr. DERWINSKI. Yes, it will be a good test for me to see if Iowa City is as interesting as Paris or London. [Laughter.]

Senator GRASSLEY. OK, and obviously you know that it is. [Laughter.]

And also to recognize Tony, your Deputy, for his hard work on the Hill as well and his new responsibilities and to congratulate him.

So now to the questions, and I know that in learning about the Department that you may not be able to answer all of these questions, but the extent to which you can give us indication that you are willing to look into them if you don't have an answer, considering the newness of the Department, the newness of your position, I will understand.

IOWA CITY EQUIPMENT

So in the first place, Mr. Secretary, I want to bring something to your attention that a colleague of mine from Iowa, who happens to be a Democrat but we work together on things like this, Dave Nagle, and also Congressman Lane Evans of Illinois, brought to my attention, and so I want to discuss it with you because this is the first opportunity.

Just last week this was brought up, that there has been problems with the cardiac monitoring system at Iowa City's Veteran Medical Center.

As I understand it, in the surgical intensive care unit, the medical intensive care unit, and the coronary care unit, problems with the present monitoring equipment have reached the point at which care for critically ill patients could be jeopardized.

Now, this equipment is about 8 to 10 years old. Apparently, it has cost about $30,000 over the last year to repair equipment failures, and my staff has been told that some of the monitoring equipment has sent signals to control stations indicating problems at locations where no patients were located, and, of course, we can give you additional information if you like.

But what I would really like to know here is whether you are able to help with this problem by looking into it. If it is as serious as I have been led to believe, and whether or not you can fix it, it is really an intolerable situation when medical staff can't trust the equipment which is supposed to tell them the medical status of sometimes critically ill patients.

Mr. DERWINSKI. First, in answer to your question, yes, it is serious, and it is as serious as you have been led to believe. We hope that when we get whatever supplemental funds will finally be proc-

essed in the 1989 supplemental, that there will be an immediate investment in this monitoring equipment in the Iowa City Hospital.

There is no doubt as to the antiquated nature and the excessive cost of maintaining it. The replacement costs, which we anticipate are approximately $750,000—that will be allocated as soon as we get the supplemental.

Senator GRASSLEY. OK. I presume that aged, deteriorating equipment, which is what seems to be at issue here, is related to the VA medical budget shortfalls. And you have indicated that that is addressed by this problem—or, I mean this problem is addressed by the supplemental.

Just in case, although I do not think there is any doubt that there is going to be a supplemental, but just in case though, I guess I would ask additionally if it is a case of repair, if it is not a waste of money, you know, throwing good money after bad, that you would look into the situation of whether or not even before then some things could be done to bring the equipment up to date.

We are also aware that our veterans' medical centers have been sending notices to category C veterans and to some category B veterans, telling them in many cases that they will not continue to be served at the VA.

Some veterans, who had come to depend exclusively on the Veterans Administration for their health care, have experienced problems in getting health care insurance and finding other ways of providing the same care. Will the supplemental appropriation, assuming the Congress supports the President's request, make it possible to resume service for these veterans for the remainder of the fiscal year?

Mr. DERWINSKI. Yes; for fiscal year 1989, yes.

Senator GRASSLEY. OK.

Mr. DERWINSKI. Assuming the supplemental. But then, Dr. Gronvall has figures to show that we go into 1990 and 1991 and it will be increasingly difficult for us to meet the normal demands of categories B and C, because of the ever- tightening budget situation.

EQUITY OF ACCESS

Senator GRASSLEY. Well, that was a followup question I had, so you have answered that. Let me say this, if that is necessary—and I hope it is not necessary when Congress gets done, because if we see that this is a problem to address in the supplemental, it seems to me like it ought to be a problem we would address then for the long-term as well—but the extent to which individual hospitals were left to their own determination, making changes to accomplish budget savings, it seems to me like from one end of the country to the other but just approached in different ways.

I would beg you, if at all possible, to have some sort of procedures across the country that would treat all veterans the same. It seems to me like it is very difficult for me to say for people in western Iowa that may end up in Sioux Falls that they are treated differently than the people in eastern Iowa that end up in Iowa City.

Mr. DERWINSKI. Actually, Senator, you put you finger on something which has been troubling us, and which we are trying to ad-

dress, which is this question of uniformity in medical care. That is what we are striving to maintain.

Let me, just from my own brief experience as Secretary, tell you what the problem is and how it developed. Without exception—I have been making field calls on our medical centers—without exception, the priority problem our medical directors tell us they face is the retention of nurses.

To retain nurses, they generally have to get permission to raise salaries. However, because of the budget constraints, they usually dip into the equipment account to meet the demands of higher nursing salaries and other specialists in medical care.

As a result, if that is allowed to stretch out for too long, a number of the medical centers then run into the problem you just described, which is equipment that is either too difficult to maintain or, in fact, is already a problem of obsolescence.

In turn, the advances in medical technology come so rapidly, it does not take long for a medical center to be behind in its equipment purchases because of the rapid progress in the field and the expenses connected with it.

So we are caught in this vicious cycle where, if we have to meet the immediate needs, which are skilled manpower, and the local medical director dips into the equipment account, then it is impossible to play catchup. That is the cycle.

But I am sure Dr. Gronvall could add to that in a more scientific and medical fashion.

Dr. GRONVALL. No; I think that is a very concise description of the dilemma that our individual medical centers face. Let me add some other comments to it, though. The supplemental that we hope to receive at about the $300 million level will allow us, for the remainder of this year, basically to maintain the present level of our operation. The Secretary has requested a 1990 budget amendment of some $512 million. That would continue us through 1990, again at about the present level of operation.

These adjusted figures do not allow us to start building back up and expanding the capabilities of our hospitals. We face additional difficult problems in that the applications from veterans are increasing each year. So we face an increasing demand.

So even if we stay at a current level of operation, it is just a matter of time until the demand exceeds our ability to provide the care to category A veterans.

Senator GRASSLEY. Now, then, I am not supposed to read into either one of your statements any implication that, if there is a necessity for cutting back services to certain categories of veterans, that cannot be done uniformly across the country? You can do that uniformly across the country, am I right?

Mr. DERWINSKI. Our goal is equity to all veterans. There should be uniformity.

Senator GRASSLEY. OK.

Dr. GRONVALL. But if I may comment. The situation we found ourselves in at the end of 1988 was that access to care was not uniform across the country. In other words, there were some parts of the country where a much larger proportion of categories B and C veterans who sought care could get the care.

So we took the first step of a 3-year series of actions to readjust our funding across the country. The objective is that by the end of a 3-year period access equity will have been achieved across the country. It is for this reason—and this will continue next year and the year after—that veterans in some parts of the country in categories B and C are being denied care at a greater proportional rate than in other parts of the country.

Senator GRASSLEY. Thank you.

Madame Chair, I am going to submit the rest of my questions for answers in writing, because I have to go to the Budget Committee.

Senator MIKULSKI. Well, we want you there at that Budget Committee, Mr. Grassley. Just remember, this is a committee that needs a hefty 302B.

Senator GRASSLEY. OK.

Senator MIKULSKI. With that, with unanimous consent, your questions will be submitted for the record.

Senator Nickles?

MUSKOGEE, OK, VA MEDICAL CENTER

Senator NICKLES. Madam Chair, thank you very much.

Mr. Secretary, welcome before this committee. I am used to seeing you before the Foreign Operations Committee, and we are glad to have you in this capacity. I am glad, too, that your title is "secretary."

Mr. Secretary, I have contacted you concerning the VA center in Muskogee, OK. We have a very sad situation. We have a very nice hospital facility; we have put a lot of money into the hospital facility. The VA has built an expensive outpatient clinic, et cetera.

But we really have a shortage of interns. I do not know if this is happening in hospitals throughout the country. It is not the case in our VA hospital in Oklahoma City, but we have a real shortage of interns. Historically, they have had about 21 or 22. This year, right now, they have seven. So it puts a real crimp on the services.

We have veterans being denied services, access, told to come back later. We have staff that is overworked. The interns are overworked; the physicians there are overworked. We really need to alleviate this problem.

I want to bring it to your attention. I have done so by letter. But we really need to work out some type of arrangement. I suggested in the letter, I am amenable to any type of a combination; but somehow or another, we need to work out an affiliation with maybe multiple medical schools, to facilitate an adequate number of interns. We need 20-some, not 7.

As you can see, they carry such a large percentage of the work, if you only have one-third of the interns there, it is a disproportionate burden on the balance of the staff, and, therefore, the veterans in the area really do not receive adequate care.

This is after we put in a significant expansion in the hospital facilities. We have in Muskogee a reduction of available beds, from 210 to 137. Can you help us with that problem?

Mr. DERWINSKI. Well, we are addressing it. Let me say that, as a result of our inquiry—and also, may I add, the very positive attitude by the Oklahoma Medical School authorities—the issue is

being addressed, subject obviously to, as you put your finger on it, the enrollment situation.

I am told that, for the academic year 1989 and 1990, there will be an increased number of residents and interns available. I am also told that there will be an expanded affiliation with the Oral Roberts Medical School. As a result of continued consultation and cooperation with the Oklahoma Medical School authorities and the Oral Roberts affiliation, a good part of the problem we hope will be alleviated.

But Dr. Gronvall has been directly involved in negotiations, and I would like to have him pick it up at this point.

Dr. GRONVALL. Yes. Senator Nickles, we will, of course, respond to your letter and give you the details. But, to give you a thumbnail response, this problem really was precipitated a year ago when the Tulsa Medical College did not provide a full number of interns and residents. We were left short on an unexpected basis. So we stepped in at that point, worked with the University of Oklahoma people, expanded to include Oral Roberts in the arrangement, and I think we have kind of limped through this year.

Our current understanding, as the Secretary has said, is that the matched group at the University of Oklahoma for this coming year was significantly expanded. They did better. So that will help.

One other thing that I should mention is that Dr. Ed Brandt, who was at an earlier time Assistant Secretary of Health here in Washington in the Department of Health and Human Services, has now gone to Oklahoma as dean of the medical school. He has contacted me on his own initiative, to give his personal assurance that he will become involved in the affiliation with Muskogee. He believes that we, the VA, do need additional assistance from his medical school, and he has pledged to step in vigorously to ensure that the VA program at Muskogee is given adequate attention.

We will work closely with him and the other people there. I believe that the problem is on its way toward being resolved.

Senator NICKLES. Dr. Gronvall, I appreciate that, and I know of your involvement in trying to find a solution. To me, it is less than satisfactory, at least until next year or next school year, that will be next September or something. Because there is a real shortage today.

I think that VA has put in some money so we could hire some additional full-time people. Just so you will be aware of it, I was just in eastern Oklahoma last break, and a lot of veterans from all across that part of the state were just telling me, "Hey, you can't get services there." I said, "I know. We don't have enough residents, and we are trying to change that."

I also echo your comment. I think Dr. Brandt, in going to the university, is going to be a very positive change, and I am pleased to hear of his commitment to you and to the VA to help alleviate that problem. He is an outstanding individual, and I am confident he can work it out.

We had a little problem, because the VA only wanted to recognize the Tulsa Medical School [TMS], which is affiliated with the University of Oklahoma, and they did not have enough residents. They went basically to the larger Tulsa hospitals and did not go to

Muskogee, so VA ended up with zero. That is just not a satisfactory result.

It really will not be satisfactory until we get some additional residents. Hopefully, from what you are stating, the next school year a large part of that problem will be solved.

Dr. GRONVALL. That actually takes place this July 1.

Senator NICKLES. This July?

Dr. GRONVALL. So it is a couple of months off. But the new crop of residents arrive on July 1.

Senator NICKLES. Well, that is much better than September.

Senator MIKULSKI. If the Senator would withhold just for a second, to comment about Dr. Brandt, not only was he a very fine physician serving within the Cabinet, but he was chancellor of the professional schools at the University of Maryland, and really had very direct hands-on involvement in our relationship between the University of Maryland Medical School, its residents, and its interns, as they provided veterans care in Maryland.

So he has had experience in dealing with the VA, and also understanding the needs of the veteran and how it fits into when educating the physician as well as providing care. So I think—actually we were real upset when he went to Oklahoma. Went back home to Oklahoma.

Senator NICKLES. Your loss is our gain.

Dr. GRONVALL. Additional accolades may not be necessary for Dr. Brandt. I agree with everything that has been said. He also serves on our Special Medical Advisory Group, the highest level statutory advisory body that we have. So I see Dr. Brandt regularly. He is committed to the VA, and I am delighted, as I said, with his personal expression of support for the Muskogee VA.

OKLAHOMA CITY OPERATING ROOMS

Senator NICKLES. Thank you very much, Dr. Gronvall.

A question, moving to the center of our State in Oklahoma City, the Inspector General did a critical report on the hospital concerning the size and the deficiencies of care, the lack of room in the operating rooms, the crowdedness. The VA had money in a 5-year plan I think that was approved in, originally, 1982. It has been set back each year. About $16 million worth of renovations.

Now, if I am reading the reports correctly, that is now scheduled for 1992-93, to complete that project that was studied, and the assessment was made that was needed to be done back in 1982.

Is that correct? Do you agree with that?

Dr. GRONVALL. Mr. Schultz, who handles our construction, our major construction programs, should speak to that.

Mr. SCHULTZ. That is correct, Senator.

Senator NICKLES. Well, let me ask you, are you familiar with the IG's report?

Mr. SCHULTZ. I am not familiar with it.

Senator NICKLES. The IG's report—and I will not read it, but I will make it available for you; but I will just highlight a couple of things in it. It says:

> The deficiencies in the medical center's operating suite place the facility at a high risk of adversely affecting the quality of patient care. Crowded operating rooms

hinder surgical technique, making procedures more difficult. Patients may be under anesthesia longer than necessary because of the inadequate electrical system or lack of communications system. Inadequate separation of clean and contaminated items increases the risk of infection.

And on and on. I will make this available to you. I would hope that you have it, and you probably do somewhere.

Given this type of a critical analysis by IG that was done actually last year, I would hope that we could move that up. The VA center in Oklahoma City is the largest in our State. It is an outstanding facility, in my opinion, in many regards; but when you receive this kind of analysis and you realize that your veterans are not receiving the type of care that they should be in something as critical as surgery, it tells me that we need to be doing something. Really, 1992 and 1993 seems to be too far off in the future.

So I would like to expedite that as much as possible. Maybe the entire $16 million is not needed to alleviate some of these problems. Maybe it could be done with some other type of renovation, more economically or sooner. I do not know exactly, but I want to alleviate that. I want to make sure that the quality of care is to the standard that we expect, and really that we demand for veterans throughout the country.

So I will get you a copy of this IG report, and I will ask your cooperation in solving some of the deficiencies that now evidently exist in the Oklahoma City Hospital.

Dr. GRONVALL. Senator, I know that our staff reviewed that report when we received it; but I will be pleased to ensure that we look at it again, and work with the construction planning people. We will get back to you with a detailed comment based on the objective of doing whatever we can as soon as we can to take corrective action. So we will make a detailed review of it.

Senator NICKLES. If you would act very quickly, I would appreciate it, because if it is necessary, we might work to expedite that through the legislative process as well, if a line item might help it. So if you would look at it very, very quickly, I would appreciate that.

Dr. GRONVALL. We surely will do that, sir.

Senator NICKLES. Thank you very much.

Madame Chairman, thank you. I heard the bell ring some time ago, and I appreciate your——

Senator MIKULSKI. Senator, we allowed you more than 15 minutes of round one and two. Do you have any other questions?

Senator NICKLES. That basically sums it up. I am really pleased that Secretary Derwinski is in the position that he is, and Dr. Gronvall. I had the pleasure of working with several individuals in the VA, and I am confident that they will continue doing an outstanding job.

I particularly appreciate their accommodation in looking at some of these individual requests. Also, in helping us solve this problem, I wish when I was in Oklahoma I could have told them that there would be more interns coming in to Muskogee in July.

Dr. GRONVALL. That is new information that we have because the matching plan by which that is done each year has just been announced. So that is very recent information.

Senator NICKLES. Well, that is good news, and we like to hear good news. If you can give us some good news as far as the Oklahoma VA Center in Oklahoma City, we would appreciate that as well. Thank you very much.

Senator MIKULSKI. Mr. Derwinski, we would like to go over some things related to general operating expenses, something relating to the loan guarantees, some construction issues, and I think that will take us to the end of the hearing.

VETERANS BENEFITS ADMINISTRATION

I would like to turn to the VA Veterans Benefits Administration. We are all concerned that veterans who apply for benefits—be it a housing loan, or a pension check—receive courteous and prompt service.

Last month, the Appropriations Committees signed off on a $3.5 million reprogramming to meet payroll and benefit costs. Now, I have some questions about that. Did the reprogramming alleviate the problems that the Veterans Benefits Administration has been experiencing? How is service delivery being affected by shortfalls at VBA? How are we doing in terms of response time to benefit recipients?

Mr. DERWINSKI. Madam Chair, Mr. Vogel, our Chief Benefits Director, was here earlier, but he had another committee to testify before this morning. So Mr. Horton, his Deputy, is here to answer any questions involving benefits.

RESPONSE TIME

Senator MIKULSKI. As you know, just so one understands, the questions here have been posed in a technical way. But there have been concerns and criticism about the sluggish response of the VA when a veteran calls, in terms of either questions or the application for a benefit. We wonder where we are with that.

Mr. HORTON. Madam Chair, it is a pleasure to respond to your question. The short answer to that is that we are trying to maintain our quality, and we think we are doing that.

We have had some slippage in our timeliness, but in all honesty we are pretty well holding our own with where we have been in the past. One answer to our problems is modernization. We need a modern computer system, we need the loan production system in our loan guarantee operation. With that kind of help this year and in the 1990 budget, we think we can make some progress on reducing the backlogs in the field.

Senator MIKULSKI. What kind of leadership is being provided to the people who staff regional and service delivery operations? The same kind of training and tempo and so on that is provided in the private sector, like at a telephone company. Do you require the phone to be answered within three to five rings? Do you say to your staff, we cannot guarantee an outcome, like eligibility for a loan or benefit, but we can guarantee an effort? Are you doing this, in terms of leadership and training and energizing your people?

Mr. HORTON. We think we are, Madam Chair, particularly in the area of training. We plan this year, even lacking the resources that we would really like to have, to provide training for the first time

for our loan servicing people, our loan guaranty journeyman workers.

EMPLOYEE TRAINING

Senator MIKULSKI. You are providing training for the first time?

Mr. HORTON. This is the first time for centralized training. In the past, we have primarily done this in the field. We are going to provide centralized training for our loan specialists in our Loan Guaranty Division, professional type training.

In our 1990 budget, we have included an adjudication academy in which we intend to do the same type of centralized training for our journeyman workers in the adjudication area.

We are trying to move in that direction. We do have standards for answering our calls. Those standards are important to our people in the field and they try to meet those standards. In general, we are answering our telephones and meeting the standard.

However, we think it is much more important that they get the right answer, even if they have to wait a little bit. We have emphasized quality throughout the system.

AMENDMENT TO 1990 BUDGET

Senator MIKULSKI. Mr. Derwinski, I understand you have made a request to OMB for a $10 million amendment to the request for the VBA. Do you know what the status is of that? And where would the funds go?

Mr. PRINCIPI. It is for 244 people in our Loan Guaranty Service, and I believe that is still pending, Madam Chair, although the budget agreement that was reached this past Friday may have an impact on that.

Senator MIKULSKI. Well, here is where we are. You know that there are going to be a lot of things you are going to have to say "No" to, Mr. Derwinski, and anybody who works with the VA in claims, if I may use that, whether it is medical or the others—nobody wants to say "No" to a veteran. So they are going to need training, they are going to need backup.

If we can at least provide trained people, at least when they get an answer—and you are right, we do not want an IRS situation where you get 23 phone calls and you get 23 different answers——

Mr. DERWINSKI. Hopefully, we are a little more consistent than the IRS is. But, Madam Chair, may I remind you that we have between now and September 15 to restructure our central office. In so doing, we are going to focus, among other things, on a point Mr. Horton made, which is increased automation as well as increased utilization and coordination of our technical resources and training.

In the Veterans Benefits Administration, we recognize the need to speed up the response time to veterans submitting their original applications.

MODERNIZATION

Senator MIKULSKI. Well, is your modernization request in this budget? Do you think it is adequate?

Mr. DERWINSKI. It was in our request to OMB. Now, what we do not know is enough details of how we are going to fare after that agreement last week. We are in the dark as much as you are. I just do not know. We have not been told enough yet.

Senator MIKULSKI. Well, we will look forward to talking with you about that.

If I could, I would like to move on to the Loan Guaranty Program for a minute. We know that this has been an area where there has been an underestimation of funds which leads to the need for supplementals.

Where are we in terms of our request here in the Loan Guaranty Program? Do you think that what you are asking for is going to be adequate?

LOAN GUARANTY PROGRAM

Mr. PRINCIPI. Madam Chair, our supplemental request has been reduced by $182 million because of the decrease in the number of claims and property acquisitions being made in that program. We have submitted a supplemental request for $130 million.

The situation is getting a little bit better but we are still hemorrhaging a great deal of money in that program. We are losing a great deal of money. Last year, it required a $1 billion supplemental just to keep that program afloat. That is in addition to the 1 percent——

Senator MIKULSKI. Mr. Principi, what are the factors that contribute to the hemorrhaging?

Mr. PRINCIPI. Well, I think some of them are clearly out of our control. The economy in the Energy Belt States, for example, is a——

FORECLOSURES

Senator MIKULSKI. Is this the foreclosure problem?

Mr. PRINCIPI. Yes.

Senator MIKULSKI. Is it because of the foreclosures?

Mr. PRINCIPI. Precisely, Senator. Houston, all throughout Texas, Colorado, and Alaska, with the no-down-payment program, when veterans lose their jobs, lose their work, they lose their homes as well.

Traditionally, the VA has gone in and made the lender whole. We have bought back a great many of these properties. We have paid the amount of the loan, all of the accrued interest that was due, all of the foreclosure costs, and the homes sat in our inventory. Right now, we have about 18,500 homes in our inventory which we are trying to resell.

We are taking a good hard look at that program. We are looking at options. We are tightening up on credit underwriting and on appraisals. We are looking at new ways to market these properties, to be more aggressive and sell these homes. But clearly, we have a long way to go, Senator.

Senator MIKULSKI. Well, first know how supportive we are in your efforts in this. I think, first of all, for a vet to lose his job and then lose his home has to be one of the most heartbreaking experiences that one could go through. Many of the veterans, as they

fought, fought and hoped for access to the American dream: home ownership.

I have a suggestion. It is not my intent, through appropriations, to micromanage your Department, but there are innovative models that have been tried in dealing with foreclosure that have been used through HUD or neighborhood programs, that we think might be of benefit to the Department as it copes with this.

NEIGHBORHOOD REINVESTMENT CORPORATION

One of our small but very effective independent agencies is an agency called the Neighborhood Reinvestment Corporation. You might be familiar with it, Mr. Derwinski. They have turned around a lot of neighborhoods in Chicago through their NHS service, and in my town of Baltimore. Very low dollar.

They have a series of innovations where they work with lenders through the NHS model, and also do an early warning before you lose your home—prevention, as you know, Doctor, best medicine.

We would encourage the VA, as you are looking at your loan guaranty situation, to reach out to the Neighborhood Reinvestment Corporation and some of the other civilian agencies, because we think they have got some models that you might be able to benefit from, because you do not want to be a landlord of foreclosure, you do not want to be holding 24,000 properties.

The focus would be prevention of foreclosure, an early warning system that works through a lender without civil liberties problems.

Mr. PRINCIPI. That is right.

Senator MIKULSKI. So we would really encourage you to do that.

Mr. PRINCIPI. We certainly will do that, Senator. We do agree with you that loan servicing and trying to work with the veterans in stopping default and foreclosure is of utmost importance, if we can work out repayment plans with the veterans. But we certainly will look at those models.

Senator MIKULSKI. Well, here is what I have in mind. If you talk to Neighborhood Reinvestment, and they think they are onto something, and if you two think you are onto something, maybe we could do a demonstration project, or find a way here to at least take an area that is hard-hit and let's give it a try.

If it works in one area, then we can expand it, because I know holding $1 billion worth of property is very difficult.

CONSTRUCTION COST OVERRUNS

Now, let's go to another budget issue: construction cost overruns. From time to time, Mr. Secretary, the Department asks for supplemental reprogramming when construction costs run higher than projected over original estimates.

Since I have been Chair of this subcommittee, and you the Secretary, we have received five such reprogramming requests: Lyons, NJ, Iowa City, Los Angeles, Tucson, and even Baltimore. They totaled $26 million. Baltimore wanted to reprogram $10 million.

I was very concerned about that. A reprogramming of $10 million in a $100 million project is a 10-percent cost overrun. Could

you fill us in on what you will do to keep projects on time and on budget? Will VA take more control of some of these projects?

Do we need new arrangements, like lease-purchase? What is happening here?

CONSTRUCTION REORGANIZATION

Mr. DERWINSKI. Mr. Principi and I have had more discussions about this phase of the VA than—well, almost as much as medical care. We recognize that as an area that requires special attention.

We are going to thoroughly reorganize, if necessary, our construction program. We are not going to reinvent the wheel or anything, just a change for a cosmetic sake, we are going to take a good hard look at how we can more effectively meet our construction needs.

One of the points you made, lease-back, is something we are going to take a look at. We may decide to look to outside help for construction, and streamline our own construction units. All those things are in order.

But it is one of the major challenges we have, and we are going to be taking a good hard look at it. By the way, we will be in a better position to address a number of these points in the next 3 or 4 or 5 weeks, as soon as our Assistant Secretaries come aboard and we have our whole new team in place.

We are not making many changes. In fact, most of the people you see at this table will be back a year from now.

Senator MIKULSKI. And as you know, we have one Polish-American as Secretary of VA; you do not need another one. But we do want to provide guidance.

It would seem to me construction is something that you can get your hands on and be able to implement management controls, technology innovations.

I mentioned lease-purchase as an idea to be considered, because GSA has used this for constructing new Federal facilities. It might be a good idea, I am not sure. Under GSA, the private sector finances and builds the facility, and leases it back to an agency for 30 years, and at the end of 30 years the agency owns the building. You might not want to own that building at the end of 30 years; you are undergoing changes.

BALTIMORE COST OVERRUN

We have to look at where we can control costs. Ten million bucks out of a $100 million Baltimore project—and it is my home town, so you would think I would be very happy about it, but, boy, I would much rather that $10 million was not going into construction, but was going into equipment, nurses, supplies.

Mr. DERWINSKI. We agree completely. That is why we are going to address this. By the way, may I add just a touch of history. I was on the House Post Office Committee years ago when the Post Office went into the lease-back field, and it worked out very well. That was prior to even postal reform.

Mr. Principi has been addressing this subject. I would like to have him add his personal comments.

Mr. PRINCIPI. Well, I do believe the Secretary has addressed it. The whole issue of public-private ventures, to see what has been done along Pennsylvania Avenue and the Federal Triangle area, utilizing the equity that the Federal Government has in this land by working with a private developer to come on and construct the facilities and lease them back, I think we have to look very carefully at those initiatives.

We have to look at construction management programs. But clearly, we cannot tolerate those kinds of cost overruns of $10 million and more with regard to our construction projects. It undermines the integrity of our construction program, and I can assure the committee that we intend to look at it straight on, and grapple with it.

BALTIMORE—LOCH RAVEN

Senator MIKULSKI. Well, thank you.

I would like to talk about a particular issue in Baltimore for a minute, the Loch Raven VA Hospital. First, Mr. Secretary, I would like to thank you for responding to my request to have a status report on the plans for this hospital.

I originally asked for what they planned to do with Loch Raven in March 1988, and have gotten no clarity or response until I asked you to intervene, and I am very appreciative of that.

What they sent me was a one-page report saying that they were looking at four possible options. Quite frankly, it was muddled.

Loch Raven could be a case study for what you are grappling with. Here is a facility that was built in the 1950's and was a flag ship facility. It originally served World War II and Korean vets, moved on to veterans' care, outpatient care, and so on.

It is out of date, and everybody agrees it is out of date as an acute care facility, so we are going to go to the University of Maryland, that $100 million plus $10 million facility.

The question becomes, here is a premier facility, a premier geographic area, owned by VA, and what VA is talking about is retaining some of it, closing some of the buildings—I will not go through all of the options, you can read it. To me, if you need long-term care, and I happen to think you do in Maryland, here is a facility that perhaps could be recycled into a long-term care facility.

Our facility at Loch Raven could perhaps meet the contemporary needs of the veteran population: long-term care, hospice care, outpatient services, particularly related to long-term care. As you know, a lot of long-term care is for people who are elderly. Our aging vet does not, again, need a nursing home, but needs other kinds of services associated with geriatric care, which are often out-patient.

So one, I would like for us to come to some kind of thinking here on the Loch Raven facility. We would not like to see it close; but again, we look to your advice.

You are looking at facilities that might once be giving acute care, that could meet a tremendous need because they are so well placed. So again, I would like you to look into this Loch Raven situ-

ation for more followup, but again, to use this as an example maybe in what else you are doing.

Mr. DERWINSKI. Yes, Senator, we certainly will.

EMPLOYMENT—HIRING PRACTICES

Senator MIKULSKI. Thank you, and thank you for your cooperation at headquarters. I think a lot is going to be happening at headquarters. I am looking forward to seeing it.

Now, my last question goes to hiring, which deals with something I know is very important to President Bush, which is the employment of women and minorities. One of the questions that I have is that the minorities comprised 32.9 percent of the workforce at last year's hearing. Could you tell me, what is that percentage today, and how many are in the GS–12 and above level?

Mr. RUDD. It is 70,325 full- and part-time employees.

Senator MIKULSKI. Yes; well out of how many, what is the percentage?

Mr. RUDD. That is out of 210,000 full- and part-time employees; the total employment is 245,000.

Senator MIKULSKI. You mean you have 245,000 people working for you and 70,000 are people of color?

Mr. RUDD. 70,000.

Senator MIKULSKI. That is about what it was last year, wasn't it? So your recruitment has not stepped up. Could you tell me what your plans are in that area?

Mr. RUDD. Yes; we have implemented a development program. We are continuing to enhance our minority recruitment plan.

Senator MIKULSKI. How many of the 70,000 people of color who work for you are over the grade GS–12 or above?

Mr. RUDD. We will have to supply that for the record.

Senator MIKULSKI. You do not know that?

Mr. RUDD. No.

[The information follows:]

RECRUITMENT OF MINORITIES AND WOMEN

In fiscal year 1988, there were 5,129 minority employees at the GS–12 or equivalent level. This represented an increase of 6.6 percent from the previous year.

The Department of Veterans Affairs already ranks as one of the leaders in the employment of minorities and women. A total of 33.6 percent of Department employees are minority group members compared with 18.4 percent in the civilian labor force. 55.6 percent of Department employees are women compared with 42.5 percent in the civilian labor force. Nevertheless, we are continuing our efforts to improve our representation of minorities and women in VA's workforce. In the past year the percentage of minority VA employees rose from 33.2 to 33.6. Among the initiatives we are undertaking are the following:

VA's Multi-Year Affirmative Employment Program for Minorities and Women (FY 1988 through FY 1992) contains a variety of activities designed to attract and recruit qualified women and minorities. In accordance with this plan, we are participating in a greater number of major national, regional and state conferences sponsored by such organizations as Blacks in Government, Federally Employed Women, National Association for the Advancement of Colored People, American GI Forum and the Urban League. At these events, recruitment literature is disseminated to, and employment opportunities as well as application procedures are discussed with, attendees. Additionally, VA recently placed first-time recruitment advertisements in *Hispanic Magazine* and *NAACP Crisis Magazine.*

VA also maintains a mailing list of women and minority organizations and colleges and universities with high concentrations of minority students. New and revised recruitment materials, including special vacancy announcements and a

monthly bulletin of nationwide employment opportunities are routinely distributed to the organizations on the list.

Another continuing outreach initiative is the VA College Liaison Program. VA field offices maintain relationships with placement and alumni officers and students through such activities as career days, job fairs, and on-campus interviewing.

In addition, VA participates in a host of federal employment programs as a mechanism to attract, recruit, and retain women and minorities. These include cooperative education programs at all education levels, the Intergovernmental Personnel Act, the Stay-in-School Program, the Summer Employment Program, the Presidential Management Intern Program, and the Part-Time Employment Program.

We will also continue internal efforts to advance women and minorities. When positions are vacated, managers are required to determine the best method of placement from economical and EEO standpoints, e.g., at the full performance level or a a developmental level which may encompass upward mobility or "bridge" positions, that offer advancement opportunities to women and minorities. At the managerial level, the Department will continue to take steps to insure good representation of women and minorities in candidate pools for key positions such as Associate Medical Center Director Trainee and for important developmental experience such as Leadership VA.

Senator MIKULSKI. Is it a priority? Is it the way you evaluate where people are? Neither Mr. Bush nor I believe in quotas, but we do believe in opportunities. So many Black Americans have chosen the field of social services who know how to run those loan programs. They can do it at HUD and at Social Security; you can sure do it at VA. It is the same model of service delivery.

Now, I asked it last year, and I have asked it again this year, and I would hope there would be changes next year. That would also, of course, go for women, and I know it is a priority with the President.

PREPARED STATEMENT OF SENATOR KERREY

There are many questions we could ask, but we have been here for 2 hours. We would like you to get on with running the VA. Senator Kerrey of Nebraska wanted to be here to ask questions. He is right there in the S&L thicket right now. So I am going to ask unanimous consent that Senator Kerrey's statement be inserted into the record, and also he has a series of questions.

[The statement follows:]

STATEMENT OF SENATOR KERREY

As a veteran I am pleased to welcome Secretary Derwinski, the first Secreatary of the new Department of Veterans Affairs.

Today, some 27 million Americans are veterans. Almost 30 percent of our people are potential recipients of VA benefits. Certainly the time for a cabinet level department to represent and assist this segment of our population was long past due.

You are appearing before us today—at a time when we can address two issues—the fiscal 1989 supplemental which is pending and the fiscal 1990 budget request. Many of the issues are the same.

One, of course, is the policy with respect to Category C veterans. Apparently for fiscal 1989 medical centers were given a reduction to absorb and much of this was absorbed by Category c, although on an inconsistent basis. The status of medical care for this group of veterans needs to be clarified for both fiscal 1989 and 1990—and that policy needs o be applied uniformly throughout the system.

A second, longer range need which must be add essed is that of the care required by an aging veteran populati n. The average age of the World War II veteran population is 66 years. In the decade coming to a close, the number of veterans over the age of 65 has about doubled. Some 25 percent of the veteran population is in this age group. In the years ahead, these vete ans will require types of care which have not previously been t e focus of the medical centers. We need to look for efficient ways to provide for these new requirements, especially the long-term care needs which are obvious.

Finally, I want to comment just briefly on the processing of claims. Reports from my state indicate that claims take up to 9 months to process—perhaps longer than in ome other parts of the country. For a widow waiting for an ans er, for a veteran who is growing older and, perhaps feebler, that is a long, long time. I think we need to explore in detail th options for speeding up the process—and see that it is indeed expedited.

SUBMITTED QUESTIONS

Senator MIKULSKI. We also will have some additional questions which we will submit for the record, and we look forward to your response.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR MIKULSKI

DERWINSKI'S PLANS TO REINVIGORATE AGENCY AND DEAL WITH PROBLEMS

SENATOR MIKULKSI: Secretary Derwinski, as our new veterans' advocate you have a big job before you. Not only do you need to see that the VA has the resources it needs, you also need to see that the resources are managed properly. Morale is at an all-time low, funding shortfalls are severe, oversight for the 172 medical centers is weak to non-existent. In order to deal with all the problems the department is facing, it needs to be reinvigorated, energized, and provided with a greater degree of direction than it has had in the past.

Mr. Secretary, what sort of changes do you plan to bring about to improve the system?

ANSWER: I do not agree that morale is at an all-time low. During my visits to VA medical centers around the country, I have found the staff to be dedicated, hardworking and committed to fulfilling our mission within our budgetary constraints. I do agree that the Department needs to be reinvigorated, energized, and provided with strong direction. And I intend to do just that. I'll be working very closely with my new management team to set a clear and concrete agenda for the next few years. I will keep you and Chairmen Traxler, Cranston and Montgomery fully informed when specific ideas for improvements have been identified.

SENATOR MIKULSKI: Are you studying ways to increase the efficiency and quality of care in the medical system as well as prepare for the long-term care needs of an aging population?

ANSWER: I have recently completed negotiations with the Controller General, and I have engaged GAO to study strategic planning, information resources management, and financial management of the Department. I will be working closely with and supporting the study team to complete its several tasks in the next eighteen months. This study will offer me an objective "outsider's" viewpoint of what we are doing well and what we can do better to ensure our veterans receive the best possible service, delivered with efficiency.

The Veterans Health Services and Research Administration (VHS&RA) is in the process of reorganizing the quality assurance function. The Department is joining with the American Hospital Association, the AMA and others, in development of a quality management measurement system. The data produced by the new system will give managers, clinical specialists and planners an improved basis for assessing quality, especially in a comparative sense with private sector medical practitioners and facilities.

The present funding limitations on VHS&RA have created a new urgency for change. I am considering creating a Commission which would examine veterans' needs for care and make recommendations concerning the appropriate kinds and levels of care required to meet those needs. How best to meet the long-term care needs of the aging veteran population will be one of the major challenges examined by the Commission.

MEDICAL CARE REQUEST

SENATOR MIKULKSI: In light of the funding shortfalls in the medical care program, could you tell me how much you are requesting for medical care in FY 90 and how that compares to your original request to OMB?

ANSWER: The Department's (then Agency) original request to OMB was $11.86 billion for medical care while the request to Congress was for $10.74 billion which is a reduction of $1.12 billion.

SENATOR MIKULSKI: So OMB cut you by over $1 billion. What are the implications of that? I've heard horror stories from veterans being treated at VA hospitals -- at the Minneapolis VAMC, amputations are being performed without providing prosthetic devices; canes and crutches being denied to veterans -- even Category A veterans -- at the Montgomery, Alabama VAMC; patients being sent away only to be diagnosed at a private hospital as having blood poisoning (Washington, D.C.)...In yesterday's Ann Lander's column, I read that "supplies are so short in many hospitals that the nurses are scrounging the little souvenir bars of soap and shampoo bottles from hotels to bring to VA patients" and another hospital "it was impossibe to give diabetic patients proper care because they do not have insulin syringes."

Will we face more of this sort of thing with the budget you are asking for?

ANSWER: The Department has requested a $512 million addition to the original FY 1990 President's request. Without an adequate level of FY 1990 funding, there will continue to be constraints on resources available to VHS&RA to appropriately fulfill its mission.

However, VHS&RA has taken a number of steps in both policy guidance and operational requirements that provide safeguards and controls on the provision of care at its health care facilities. These steps have been taken in an effort to compensate where possible for the negative impact of the funding shortfall in the Medical Care Program. Among these steps or measures are the following:

- o VHS&RA budget guidance for FY 1989 that states among other advice that quality of care will be maintained.

- o VHS&RA has established bi-weekly reporting requirements which call for each health care facility to provide advance notification of all local actions affecting its delivery of services. In addition, advance approval must be secured from Central Office for any requested workload reductions.

- o VHS&RA has established and utilizes a spectrum of quality of care monitors, consistent with statutory requirements, to ensure that quality of care is being maintained in its health care facilities. The primary determination of maintaining quality is, of course, at the local facility level.
- o VHS&RA has implemented a phased plan to achieve geographic equity of access to care. Beginning in FY 1989, the management of discretionary workload is required across all VHS&RA regions. This is being monitored by both Regional Directors and central office staff.

Enactment of the President's FY 1990 budget request would necessitate additional workload reductions in order to manage the system within the level of resources the budget requests. Therefore no improvement in service could be expected for Category C and Category B veterans.

FY 89 SUPPLEMENTAL

SENATOR MIKULSKI: You have asked the President for a $314 million FY 89 supplemental, and I commend this effort. But I understand that even with these additional funds in FY 89 you will not be able to maintain current services -- is that true?

ANSWER: The supplemental will allow for an increase in workload over that currently being achieved. The magnitude of the increase will depend on when the supplemental is received; however, the increased workload level will be below the level achieved in FY 1988.

SENATOR MIKULSKI: What percent of the category B and C veterans who request care will not receive it?

ANSWER: With the level of resources requested in the President's budget for FY 1990, care of Category B and C veterans will be significantly restricted. There are literally millions of potential Category B and C applicants. We do not have a reliable estimate of the number of those that will apply for care in FY 1990, given a VA policy of restricting their access to care. VHS&RA is taking all possible steps within resource constraints to assure that any reduction in care to Category B and C patients will be as small as possible.

It is important to note that:

- o Emergent patients receive care regardless of what category they fall into.

- o In March 1989, direction was sent to all VHS&RA Regional Directors and health care facility directors, dealing with the subject of access to medical care for Category B and C patients (and also non-veteran control patients).
  - In managing within existing budgetary limitations, many medical centers have reviewed patient eligibility and in order to cut back on discretionary workload, particularly inpatient and outpatient services for Category B and C patients.
  - In addition, many medical centers have encountered difficulties with the reduction of discretionary workload because of legal or contractually established workload such as VA-DOD sharing.
  - In summary, certain Category B and C patients continue to receive treatment under certain authorizations. This treatment is mandatory and not subject to reduction arising from the regional equity of access to care policy.

SENATOR MIKULSKI: Why are these shortfalls occurring and in what areas of the country is the problem most pronounced?

ANSWER: In FY 89, the Medical Care appropriation did not contain enough dollars to operate the Veterans Health Services and Research Administration health care system at the FY 88 workload levels. It was recognized that workload cuts were necessary in order to operate within the budget. An equity of access concept was developed so the same percentage of mandatory workload would be treated at each VAMC. This was called non-discretionary workload. The Upper Midwest and Northeast had the lowest levels of non-discretionary workload. Consequently, when dollars were moved under equity of access, these regions were the most affected.

FY 90 BUDGET AMENDMENT FOR MEDICAL CARE

SENATOR MIKULKSI: Mr. Secretary, in early February you asked the White House for a $512 million amendment to the FY 90 budget request for medical care. Again, I commend your efforts. What is the status of the request and when dot your expect any action on it by the White House?

ANSWER: The request is in OMB and I cannot estimate the date of any OMB action on it.

SENATOR MIKULSKI: If we enact the 89 medical care supplemental, but the President does not request more funds for FY 90, the FY 89 budget for medical care would be $100 million more than the FY 90 request. How would that $100 million cut affect the medical care program in FY 90?

ANSWER: If the 1989 supplemental funding level is not continued into the 1990 appropriation, the added support for employment and workload in 1989 would be temporary and once fiscal year 1990 begins workload and employment would move toward the levels contained in President Reagan's 1990 Budget request.

FY 90 SAVINGS FOR MEDICAL CARE

SENATOR MIKULSKI: You are calling for savings of $215 million (6-15) in FY 90 through "redistribution of levels of care." As I understand it, what this really means is that medical care will not be provided to category B and C veterans, unless there happens to be available space. How many B and C veterans will be affected by this proposal in FY 90?

ANSWER: The President Reagan Budget request specifically states that "care will be available to veterans without service-connected disabilities who have medium income (Category B)" and "afforded to veterans without service-connected disabilities who have higher incomes (Category C) as resources permit". Although this represents the President's overall policy, the ability of any one VAMC to make care available to all B's and C's will depend on their cost to provide care to Category A veterans and available resources. In certain locations, such as in Florida, mandatory workload consumes practically all available resources. Other areas, however, may be able to provide limited care to Category B & C veterans. In addition, programs such as nursing home care and domiciliary care will be affected.

PVA HEALTH CARE STUDY

SENATOR MIKULSKI: A study conducted by the Paralyzed Veterans Association in conjunction with the American Health Planning Association (Veterans' Health Care: Actions and Interactions, January 1987) revealed that nearly 76% of the nonservice-connected veterans receiving care in the Chicago area are elderly black veterans with incomes of two-thirds of the poverty level. How can you justify cutting off care to these veterans -- in any circumstance?

ANSWER: There would be no justification for denial of care to veterans as described in the question, except depletion of resources. A veteran with an income of two-thirds the poverty level (regardless of age) would meet Category A criteria. As such, he or she would have the highest priority for care within the VA system. To date this Fiscal Year, no Category A veterans have been denied access to inpatient care in Medical District 17. For outpatient care, all veterans, regardless of category, are provided care for emergent medical conditions. Category A veterans are afforded priority for other

outpatient care. A newly activated outpatient clinic in Medical District 17 has experienced workload demands of such magnitude that policies restricting non-emergent follow-up care have been implemented, including referral of new Category A applicants to other community resources. This situation is expected to continue, until current resource constraints are addressed.

With regard to the PVA data referenced in the question, we are unable to reconcile the comments with the PVA study. The question refers to veterans receiving care in the Chicago area, therefore we have limited our review of data to that of the user population. It should be noted that the data used in the PVA study is from 1981 through 1983. The study identifies an inpatient user population (both service-connected and nonservice-connected) of 23,518 veterans. This equates to 2.4% of the total veteran population in the Chicago primary service area. Of the user population, 36% (8,466 veterans) were identified as black. Of the inpatient population, 24% of veterans were identified as age 65 and over (the 65 and over age cohort is commonly accepted to define the "elderly" population). The study identifies an annual income $8,350 as the poverty level, with 15% of the total (not user) veteran population having annual incomes below this level. The study did not identify how many users have annual incomes of less than $8,350. Of the total 1983 Chicago-area veteran population, 26% were identified as having annual incomes below $10,000. Again, user-specific income data were not provided for this income category. From the data available in the study, we were not able to substantiate that 76% of the nonservice-connected veterans receiving care in the Chicago area are elderly black veterans with incomes of two-thirds of the poverty level; in fact, data in the study would indicate this isnot possible, since the black user population (service connected and nonservice-connected) was reported to be 36% of the total user population.

GENERAL OPERATING EXPENSES - VETERANS BENEFITS ADMINISTRATION (VBA)

SENATOR MIKULSKI: Now let's turn to the VA's Veterans Benefits Administration. We're all concerned that veterans who apply for benefits, be it a housing loan or pension check, receive courteous and prompt service.

Last month the Appropriations Committees signed off on a $3.5 million reprogramming request for the Veterans Benefits Administration to meet payroll and benefit costs.

I have a couple of questions related to this: did the reprogramming alleviate the problems VBA has been experiencing, how is service delivery being affected by the shortfalls in VBA?

ANSWER: While the reprogramming of $3.5 million provided some relief from our shortage, VBA still requires an additional $13 million to maintain an employment level of 12,700 FTEE for FY 1989. We have not taken action yet which would affect the delivery of services we provide. However, without additional funding, we will have to take adverse employment actions including an employment freeze and potentially a furlough before the beginning of the fourth quarter, as well as drastically reduce activity in our nonpayroll accounts. Such reductions can only adversely impact the timeliness and quality of the service we deliver to veterans.

RESPONSE TIME

SENATOR MIKULSKI: How would you grade the VA's current service response time to benefit recipients, how do you plan to improve it?

ANSWER: In terms of claims processing our response time to claimants is not what we would wish to be. The causes of decreased timeliness can be attributed to the increased complexity associated with the variety of veterans programs. Timeliness is also adversely affected by due process requirements which can add delays of up to 60 days.

The need to improve timeliness is being addressed in two ways - improvements in procedures and training for employees. For example, an automated exchange of data between medical centers and regional offices is being tested at the VARO in St. Petersburg with Medical District 12. If this is successful, the test will be expanded as rapidly as possible. In addition, changes are in process that would give word processing capability to adjudicators thereby allowing them to prepare and release letters without administrative delays.

Employee training is also being emphasized within VBA as evidenced by our plans to establish a training academy. The provision of centralized training for new employees and in-service sessions for specific skill areas will relieve field stations of the responsibility to provide extensive on-the-job professional training. This will result in employees who will be more proficient and produce higher quality work in a more responsive period of time.

BUDGET FY 90 AMENDMENT FOR VBA

SENATOR MIKULSKI: Finally, what is the status of your request to OMB for a $10 million amendment to the FY 90 request for the VBA?

ANSWER: We have not received an official response to our amendment request. We understand that OMB is anticipating a amendment request. We understand that OMB is anticipating a total of $157 billion for

domestic discretionary programs in FY 1990. This is an increase of $21 billion over the 1990 Budget Request submitted by President Reagan. It is uncertain at this time how these additional funds will be distributed.

LOAN GUARANTY REVOLVING FUND

SENATOR MIKULSKI: In fiscal years 1988 and 1989, VA requested supplemental funds for the Loan Guaranty Revolving Fund, reflecting the fact that the Loan Guaranty Revolving Fund has operated at a deficit since 1981. What factors led to the continual underestimation of funds needed, will a supplemental be needed for FY 90 and what steps are you taking to reduce the need for these supplemental requests?

ANSWER: The Loan Guaranty Revolving Fund first received a supplemental appropriation in August 1984. Since that time, VA has experienced greater program cost than originally projected each year, primarily as a result of the historically high level of home loan foreclosures. During 1988, 46 percent of these foreclosures were concentrated in four states (Colorado, California, Oklahoma and Texas). At this time, due to an overall improvement in program activities during 1989, it does not appear that the Fund will need supplemental funds in 1990. In order to reduce program cost, VA is proposing a regulation change (effective August 1989) which will reflect the cost of Government borrowing in the "net value" calculation of acquiring a property. This proposal is expected to save approximately $150 million during 1990.

NEIGHBORHOOD REINVESTMENT CORPORATION

SENATOR MIKULSKI: Where are the greatest number of VA foreclosures occurring, how often do you use alternatives to foreclosure, and finally, Neighborhood Reinvestment Corporation told us you turned down their offer to work with them on developing model alternatives to foreclosure--will you reconsider this decision?

ANSWER: The greatest number of VA foreclosures are occurring at the following five stations:

Station	Foreclosures (1st half FY 1989)
Houston	3,176
Waco	2,044
Denver	1,591
Muskogee	1,158
St. Petersburg	1,007
5 Station Total	8,976
Nationwide Total	20,360

VA pursues alternatives to foreclosure with the veteran borrower and the loan holder whenever practicable. We do not necessarily have a choice as to which alternative is pursued in a given case, since this is dependent on the veteran's financial situation and the cooperation of the veteran and the loan holder. The following data shows how defaults were resolved through alternative to foreclosure during the last 3 and one-half years:

Fiscal Year	Refundings	Compromises	Voluntary Conveyances	Cures
1986	253	N/A	1,620	125,732
1987	208	N/A	1,287	126,049
1988	257	N/A	1,224	126,263
1989 *	209	123	535	60,162

* to 3/31
(A report counting compromise claims was first made available for FY 1989.)

In VA Central Office we are not aware of any offers from the Neighborhood Reinvestment Corporation to work with them on developing model alternatives to foreclosure. Our Regional Offices in Chicago and Baltimore also report receiving no offers from them. However, we would be pleased to discuss alternatives to foreclosure with any individuals and/or groups who may have realistic proposals for foreclosure avoidance and are available to help veterans.

CONSTRUCTION COST OVERRUNS

SENATOR MIKULKSI: From time to time, Mr. Secretary, the Department asks for substantial reprogrammings when construction costs run higher than projected over the original estimates. Since I have been chair of this subcommittee we have received five such reprogramming requests(Lyons, NJ; Iowa City, IA; Los Angeles, CA; Baltimore, MD and Tucson, AZ) totalling $26 million.

What will you do to keep projects on time and under budget -- will VA Headquarters take more control over some of these projects?

ANSWER: The construction program is one of my most important areas to review. I am aware of the cost overruns you mentioned. I am also aware of the advice of Senator Simpson which was to limit the number of new construction projects to only those required to maintain our current system not to increase our system. Deputy Secretary Principi and I have been receiving advice from many sources on the need to study various facets of the construction program. I will keep you informed of any future decisions concerning the program.

CONSTRUCTION - LEASE-PURCHASE

SENATOR MIKULKSI: One of the innovative and cost-effective financing techniques GSA has used for constructing new federal facilities is a lease-purchase arrangement. Under this approach, the private sector finances construction of a facility, leases it back to the agency for 30 years, and at the end of that time the agency owns the building. This approach reduces the up front construction costs for new buildings substantially. Would the Department informally support exploring this as a possibility in any of its construction projects?

ANSWER: My staff is using GSA expertise in this area. While we have no direct experience in the lease-purchase agreement, we have considerable experience in the option whereby the VA has a suitable building contracted for it by an investor and the VA leases the building from the investor (lessor build, VA lease option) in our outpatient clinic programs. While this option definitely decreases the up front construction costs for new buildings, other problems including proper maintenance, security building management and total building cost must be studied carefully before this arrangement could be a viable option for us. The VA is now working with GSA in examining the advantages of the lease-purchase option to the VA.

WOMEN AND MINORITY EMPLOYMENT

SENATOR MIKULSKI: Mr. Secretary, I am very interested in the department's hiring practices of women and minorities. As of last year's hearing, 27.7% of your GS-12 and above positions were occupied by women. Has that percentage improved?

ANSWER: As of September 30, 1988, a total of 8,819 women were employed at the GS-12 or equivalent level and above, or 29.0% of these positions. This is an improvement from our 1987 representation.

SENATOR MIKULSKI: What percent of positions in the entire VA workforce are held by women? How does that compare to 1988?

ANSWER: On September 30, 1988 we had 118,365 women employees or 56.6% of the VA work force. On September 30, 1987, we had 118,625 female employees or 56.3% of the workforce. Our total employment decreased from 210,506 employees on September 30, 1987 to 209,271 in 1988. Therefore, although the VA's total employment decreased by 1,235 positions, only 260 of the losses were female. Therefore, the overall representation of women increased by three tenths of one percent during the period.

SENATOR MIKULSKI: Minorities comprised 32.9% of the workforce as of last year's hearing. What is the percent today? How many of these are in the GS-12 and above level?

ANSWER: As of September 30, 1988, 70,325 of our employees were minorities, comprising 33.6% of our total employment. Of 30,385 positions at the GS-12 level and above, 5,129 are occupied by minorities. This number comprises 16.9% of these positions.

SENATOR MIKULSKI: Can you describe your plans to attract a greater number of women and minorities to the VA workforce, particularly at the professional levels?

ANSWER: The Department of Veterans Affairs already ranks as one of the leaders in the employment of minorities and women. Its total permanent full-time and part-time employment declined from 210,506 to 209,271 during FY 1988, a decrease of 1,235 employees. During the same period, however, minority employment increased from 69,908 to 70,235 employees or 33.6 percent of the work force. This is a net gain of 417 minority employees from September 30, 1987 to September 30, 1988.

Nevertheless, we are continuing our efforts to improve our representation of minorities and women. Among initiatives we are undertaking are the following:

VA's Multi-Year Affirmative Employment Program for Minorities and Women (FY 1988 through FY 1992) contains a variety of activities designed to attract and recruit qualified women and minorities, particularly for professional positions. In accordance with this plan, we are participating in a greater number of major national, regional and state conferences sponsored by organizations such as Blacks In Government (BIG), Federally Employed Women (FEW), National Association for the Advancement of Colored People (NAACP), American GI Forum, IMAGE, National Urban League, etc. At these events, recruitment literature is disseminated to participants, as well as discussing application procedures and employment opportunities. In addition, VA targets advertisement for professionals in magazines as necessary. For example, we have recently advertised in Hispanic and NAACP's Crisis magazines.

VA also maintains mailing lists of minority and women recruitment contacts, organizations and colleges and universities with concentrations of minority students. Our monthly recruitment bulletin, as well as other recruitment information is routinely distributed through these lists.

In addition, the Department has taken several steps to ensure better representation at the managerial ranks, and will continue to take steps to ensure good representation of women and minorities in candidate pools for key positions such as Associate Medical Director Trainee and for important developmental experiences such as Leadership VA.
During FY 1988, efforts such as those noted above have contributed to the following results:

- Women representation increased from 56.3% to 56.6%
- Hispanic representation increased from 4.5% to 4.7%
- Asian American/Pacific Islander representation increased from 3.2% to 3.4%
- American Indian/Alaskan Native employment increased from 1,161 to 1,248 employees.
- Blacks were the only group that showed a decrease in representation during this period, from 24.9% to 24.8%
- VA exceeds the national civilian labor force representation of minorities and women in all categories except for Hispanics

LOCH RAVEN

SENATOR MIKULSKI: I would like to talk about the disposition of Loch Raven VA hospital in Baltimore. A task force has been studying various options for a long time. At your direction, they recently sent me a status on their work -- which said, from all practical purposes, that they're still studying the matter. I originally asked for this report a year ago (March 1988) and am terribly annoyed by the delay in getting a final answer. When could I expect a final report on this matter, Mr. Secretary, which is of great personal interest to me?

ANSWER: The VA's Task Force on the future of Loch Raven will complete its review by August 1989. I will inform you immediately of my decision on the disposition of Loch Raven and provide you with a copy of the Task Force report at that time.

QUESTIONS SUBMITTED BY SENATOR MIKULSKI

MEDICAL CARE -- IMPROVING OVERSIGHT FOR EACH MEDICAL CENTER

SENATOR MIKULSKI: As I see it, Mr. Secretary, quality assurance has been a problem in the VA hospital system. One reason for this is that oversight has been weak. Each medical center is operating as its own "fiefdom" with the director making his own decisions independently of Central Office -- important decisions like where to make cutbacks and what services to curtail in order to deal with funding shortfalls.

Secretary Derwinski, do you plan to continue to allow each of the 172 medical centers to act as its own "fiefdom", or do you plan to provide more oversight?

ANSWER: I do not believe that each medical center operates as a "fiefdom". I believe that we have competent responsible managers who have acted prudently in meeting patient care demands they are faced with in the light of fiscal stringency. In order to better understand those demands, I have halted any further cutbacks in service in the Veterans Health Services and Research Administration until such time that my office could become personally involved. A plan has now been developed where all proposed future cutbacks within the Agency will be approved by my office.

MEDICAL CARE -- LONG-TERM CARE

SENATOR MIKULSKI: By 1990 more than one-half of all American men over the age of 65 will be veterans, so we really need to focus on the area of long-term care services. While alternatives must be found and encouraged, nursing home care is an essential need for veterans now. How do you propose to address this issue, particularly in light of the fact that the Department is not requesting any new nursing home or long-term care construction in its 90 request?

ANSWER: In nursing home care, the Department plans to care for 16 percent of the estimated 290,411 veterans who will need nursing home care in the year 2000. The Department plans to deliver this care to 46,466 veterans on any given day (census or ADC) through the three VA-sponsored nursing home programs: VA Nursing Home Care Units (VANHCU); Community Nursing Homes (CNH); and State Nursing Homes. It is the Department's plan to provide care to 30 percent of the veterans in VANHCUs (13,940 ADC); 40 percent of the veterans will be treated in the CNH Program (18,586 ADC); and 30 percent of the veterans needing nursing home care will be treated in the State Home Program (13,940 ADC).

In planning for nursing home care, the Department is committed to exploiting other institutional and noninstitutional options before requesting new construction for VANHCUs. The Department has refined its planning over the past year to better account for available and suitable Community Nursing Home beds. This analysis, due this summer, will offer a comprehensive review of the private nursing home sector. The Department has also implemented incentives to encourage states to participate in the State Home Program. A priority system has been established which give States that have not participated in the State Home Construction Grant Program, a higher priority for funding. The Department has also developed a mechanism to maintain an adequate per diem rate in the State Home Program.

In addition to an increased reliance on the CNH and State Home Programs, the Department will focus its efforts on converting hospital beds to nursing home beds before requesting new construction.

SENATOR MIKULSKI: Since your budget provides for no new VA nursing home construction, how are you addressing this growing need through greater use of existing hospital space?

ANSWER: In an attempt to reduce the amount of new construction and still provide care to the increasing number of aging veterans, VA strongly encourages the conversion of underutilized hospital beds to nursing home beds.

VA policy is to convert existing underutilized hospital beds to nursing home beds, when applicable, in lieu of new construction to assist VA in providing its 30 percent provider share of nursing home care in VA-owned nursing homes/medical facilities. VA views conversions of underutilized hospital beds to nursing home beds as a method to improve the economies and efficiencies of existing hospitals and reduce the cost of building new nursing home units.

SENATOR MIKULSKI: How many excess beds do you currently have in the system?

ANSWER: Public Law 97-72, Section 108, enacted November 2, 1981, amended Title 38, section 5010 to require the VHS&RA to establish the total combined number of hospital and nursing home beds at no more than 125,000 and not less than 100,000 ...and, of the number of beds authorized, ... to operate and maintain a combined total of not less than 90,000 hospital and nursing home beds.

That legislation was enacted to prevent reductions in the VHS&RA bed capacity which would limit its ability to provide care for veterans.

However, in recent years a variety of factors within the agency and in the public health sector have served as incentives to VHS&RA medical centers to provide needed services with a reduced number of beds (e.g. the shifting of a number of medical, surgical and psychiatric inpatient services to an outpatient setting).

Due to the operating bed level "floor" mandated by P.L. 97-72, problems have been created. For example:

- VHS&RA Central Office has been constrained from approving legitimate requests from its medical centers for reductions in operating beds, and, as a result, unneeded beds remain in operation and resources needed in other areas of the medical care program cannot be reallocated.
- Often times medical centers have had to close beds locally due to staffing shortages, lack of demand, construction and modernization, fiscal constraints, and other reasons. However, due to the CO approval constraints resulting from P.L. 97-72, these have not been reported to Central Office and have resulted in the creation of "phantom beds" and empty beds.
- It has been difficult to provide accurate and meaningful statistical reports.

The most recent report (DVA AMIS Report 80A1) for the period ending March 31, 1989 shows the aggregated total of medical center reported beds as follows: 70,427 hospital operating beds and 12,373 nursing home care unit operating beds.

VHS&RA has taken explicit steps to adopt new policy and

procedures to determine, at each of its medical centers, the number of beds that are available and temporarily unavailable at any given time. These procedures should result in accurate bed counts and the elimination of "phantom beds" at medical centers. Following approval by the Chief Medical Director of the proposed policy and procedural changes, implementation of this policy and procedures is now in process.

It should be noted that VHS&RA is converting unused hospital beds to nursing home care unit beds. However, this is not a "one for one" conversion, due to the different spatial requirements of nursing home care unit beds.

MEDICAL CARE -- RECRUITMENT AND RETENTION PROBLEMS

SENATOR MIKULSKI: How has the deteriorating funding situation affected morale, recruitment and retention in VA medical centers?

ANSWER: While we agree that our funding situation is having some impact on recruitment and retention, we feel that our inability to recruit certain health care professionals in some geographic areas is of more significance. As an illustration, as of 2/28/89, we had 1236 funded nurse vacancies that had not been filled due to recruitment difficulties.

We feel that our recruitment and retention problems, compounded by our funding situation, are in fact affecting morale (need to work overtime, working side-by-side with higher paid contract employees, etc.). This has been expressed by employee organizations and facility managers.

SENATOR MIKULSKI: What sort of problems are you experiencing in bringing on board high quality medical professionals? Where (geographically) are the problems most pronounced?

ANSWER: We continue, in some geographic areas, to be noncompetitive when compared to the private hospitals. We continue to fall short in the areas of salary and fringe benefits (health insurance, day care, shift assignments, etc.).

The VA's preliminary 1988 Survey of Health Occupational Staff Report reflects the following:

Occupation	Highest Turnover Rates	Highest Net Vacancy Rates
Nurses	New Hampshire (46.8%) Rhode Island (42.2%) Nevada (38.7%)	Hawaii (28.6%) Louisiana (14.2%) North Dakota (13.1%) New Jersey (12.9%) Georgia (12.8%)
LPN/LVN	New Mexico (69.6%) Connecticut (69.2%) New Hampshire (64.7%) Vermont (63.6%)	Arkansas (100%) Oklahoma (40.7%) Massachusetts (37.2%)
Nursing Assistants	Massachusetts (67.4%) Rhode Island (58.5%) South Carolina (57.0%) New Hampshire (52.3%)	New Mexico (31.6%) Utah (28.0%) Nebraska (20.0%)
Pharmacists	New Hampshire (80.0%) Missouri (48.8%) Indiana (42.4%)	Washington, DC (27.6%) Rhode Island (26.3%) Alaska (25.0%) New Jersey (21.7%)
Physical Therapists	New Hampshire (80.0%) Missouri (48.8%) Indiana (42.4%)	Rhode Island (75.0%) New Jersey (60.0%) Connecticut (57.6%) Illinois (51.7%)
Occupational Therapists	Alabama (160%) South Carolina (150%) Louisiana (100%) Oklahoma (100%) West Virginia (100%)	Alabama (61.5%) Louisiana (57.1%) New Jersey (53.8%) Oklahoma (52.7%)
Medical Technicians/ Technologists	New Hampshire (92.3%) Delaware (66.7%) Massachusetts (54.5%)	Massachusetts (25.4%) New Hampshire (21.4%) Delaware (20.3%) Ohio (14.1%)
Certified Respiratory Therapists	Washington, DC (60.0%) Vermont (60.0%) Arizona (56.0%) Washington (52.9%)	New Jersey (87.5%) Washington, DC (64.3%) Utah (60.8%) Oklahoma (55.6%)
Diagnostic Radiology Technician/ Technologists	Connecticut (94.1%) Rhode Island (66.7%) Nevada (50.0%) Puerto Rico (44.0%)	Puerto Rico (30.7%) Rhode Island (29.3%) Massachusetts (27.3%) Delaware (25.0)
Dental Assistants	New Hampshire (100%) Washington (88.9%) Connecticut (60.0%) Arkansas (57.1%)	New Mexico (25.0%) Maine (20.0%) Delaware (18.8%)
Nuclear Medicine	Delaware (200%) Massachusetts (116.7%) Nevada (100%) Colorado (66.7%) Connecticut (66.7%) Rhode Island (66.7%) South Dakota (66.7%)	Delaware (66.7%) Nevada (50.0%) South Dakota (40.0%)

In the area of physician recruitment VA is experiencing increasing problems in attracting and retaining the quality of physicians it needs. As an example, during Fiscal Year 1987, 1247 full-time board certified physicians left VA employment. Only 85% of the replacements or 1067 physicians were also full-time and board certified. The balance of the replacements were either part-time or

not board certified. The Department had to rely increasingly on attracting part-time physicians. From 1981 to the present our full-time physician employment level grew by only 2.9%. During the same period, part-time employment increased by 31.5%. We have also been unable to retain physicians. Most turnover occurs within 4 years of a physician joining VA. For example, turnover rates among physicians under age 35 with 2 to 4 years of VA experience was 22% in 1987. The problems of physician recruitment and retention tend to be national in scope and not confined to one or two geographic areas.

SENATOR MIKULSKI: Are you experiencing recruitment diffculties with one medical specialty more than another? If so, please specify.

ANSWER: The agency does not have nationwide vacancy data by nurse specialty. However, the April edition of the VA Recruitment Bulletin reflects a significant number of vacancies in various specialties, such as critical care, intensive care units, psychiatry, and surgery.

In the area of physician recruitment, VA encounters the most difficulty in recruiting specialized surgeons (orthopedists, ophthalmologists, cardiac surgeons, etc.), general surgeons, radiologists, anesthesiologists and psychiatrists.

ADDRESSING RECRUITMENT PROBLEMS

SENATOR MIKULSKI: Aside from providing special pay rates, are you working on innovative ways to address recruitment problems?

ANSWER: The following actions have been taken to improve our recruitment and retention stance:

- The third annual Survey of Health Occupational Staff is underway. The data, which should be available in the near future, will be used to assist in the evaluation of recruitment and retention trends throughout the Department. This data will assist in the development of the expanded data base to assist in the analysis of staffing and potential shortages.
- We are in the process of implementing an image enhancement program to improve our perception as a preferred health care employer. This campaign will initially focus on efforts to improve the recruitment and retention of nurses, pharmacists, occupational and physical therapists, and other scarce occupations.
- A VA Task Force recently convened February 1989 to examine the current Title 38 pay system for nurses and to develop strategies for improvements in both the administrative and legislative arenas.
- In March 1987, the Chief Medical Director charged a Task Force to study problems of recruitment and retention of nonphysician health care workers to make recommendations for their long term solution. The Task Force agreed that, in most geographic areas, the VAMCs do not provide keen competition for quality health care personnel when compared to the private and even university affiliated hospitals. We frequently fall short in several of the following categories: base salaries, benefit packages, workload or staff/patient ratio, effective recruitment and

publicity efforts, and amenities of the workplace. An Action Plan has been developed and approved to implement the recommendations of the Task Force.

- o A new DM&S program office, called the Office of Health Care Staff Development and Retention, has been established and is responsible for the execution of the Action Plan developed to implement the approved recommendations of the Task Force. In addition, this office will give national focus to recruitment and retention efforts and concerns and serve as an information clearinghouse.
- o Also, we are in the process of pursuing the following established under Public Law 100-322, "Veterans' Benefits and Services Act of 1988":
  - Mandatory Saturday Premium Pay for registered nurses;
  - Tuition reimbursement for those employees pursuing nursing degrees;
  - Study of various alternative pay, personnel management, and benefit practices in the interest of improving our competitive recruitment and retention stance;
  - Child care center operation at VA facilities.
  - Health Care Professional Scholarship Program expansion.
  - Hiring of pharmacists and occupational therapists under the discretionary "hybrid" Title 38 appointment authority.
- o A variety of regional and local initiatives are being monitored throughout the system. These efforts will be formalized into a clearinghouse function that will serve to ensure the broadest dissemination of the recruiting information.

SENATOR MIKULSKI: How much are you requesting for the Health Scholarship program?

ANSWER: The Health Professional Scholarship Program budget appropriation for FY 1989 is $8.1 million. FY 1990 request is for $8.75 million.

SENATOR MIKULSKI: Follow-up: Why are you essentially level funding this program when it's one of the few methods VA uses to recruit high-demand medical professionals?

ANSWER: We value the Scholarship Program very highly. The modest funding increase will allow for scholarships in an additional health profession -- pharmacists -- as well as in Nursing and Physical Therapy, even though other agency programs received budget reductions. The ultimate value of the scholarship program is the consistent infusion of the best and brightest students from colleges and universities into the VA health care system. Coupled with the constant recruitment efforts of the scholarship program, the retention of participants as employees, over a period of time, is expected to assist in the reduction of VA health care shortages. The program will also develop a cadre of leaders who, through their practice, can attract and recruit professionals into the system.

AIDS

SENATOR MIKULSKI: My next questions concern the AIDS crisis. The VA currently provides for about 7% of the nation's AIDS patients. According to the Paralyzed Veterans Association, 10% of all new AIDS patients will be cared for in VA hospitals in 1990, amounting to some new 3,600 AIDS victims.

It costs the VA about $30,000 per year to care for an AIDS patient. What are you requesting in FY 90 to care for AIDS patients and will this be adequate to care for the expected number of AIDS patients?

ANSWER: In the FY 90 budget $61.6 million and 625 FTEE have been requested to care for AIDS patients. This will not fund all costs related to the care of the projected 3,600 patients which make up 6% of the 60,000 new cases expected to be seen in the U.S. in 1990. However, it will supplement the money allocated to the medical centers on the basis of expected episodes of care (inpatient admissions, outpatient visits, etc.)

In addition, funds are necessary to expand the testing and counseling program aimed at halting the spread of Human Immunodeficiency Virus (HIV), the virus that causes AIDS. HIV testing is a potent tool when linked to education in preventing the spread of the virus. The testing and monitoring of HIV positive patients requires enhancement of laboratory capability and counseling staff. Finally, universal precautions will continue to require some additional funding as VA meets its obligation to protect the health and safety of our health care workers.

SENATOR MIKULSKI: How much did you spend on AIDS in FY 89? Did you take funds from other items in the health care budget to cover the costs, and if so where did the funds come from?

ANSWER: $31,727,319 has been allocated through April 17, 1989. This came from the amount added to the budget by Congress. 1115 new AIDS patients were seen in the first half and it is estimated that as many as 1000 of the patients diagnosed prior to FY 89 may have survived to receive some care during the year. Therefore, it is unlikely that this is all that will be spent. Funds spent over and above the AIDS allocation will come from the remainder of the medical centers' budgets.

HOMELESS

SENATOR MIKULSKI: One third of our nation's homeless are veterans, according to the VA's own estimates. Yet your budget request proposes a reduction of 6,370 domiciliary patient beds (Summary budget, 29-33) the kind of care which is principally devoted to homeless veterans. This cut contradicts President Bush's commitment to help homeless veterans. How do you justify this proposal? What was your request to OMB for domiciliary patient beds?

ANSWER: The Reagan Budget submission to Congress included a policy to realign program activities in order to effectively implement applicable laws and regulations governing eligibility for domiciliary care. Legally, care provided in VA Domiciliaries is considered discretionary. Due to our stepped up efforts in eligibility screening, we will treat 6,371 less patients (not beds) in 1990. In addition to this proposal, the VA's commitment to the homeless can be seen by the continuation of funding (Through

absorption) of both the HCMI and VA Domiciliary homeless programs in 1989 and 1990 after resources specifically appropriated for homeless programs expired, by law, in September 1988.

The 1990 request to OMB included 16,457 domiciliary patients treated, which represented a current service of the 1989 level estimated at that time.

SENATOR MIKULSKI: Although one-third of the homeless population are veterans, one-third of the federal funds allocated to federal homeless programs are not available to the VA in FY 90. Why?

ANSWER: Federal funds have been allocated for a large number and variety of homeless programs that are administered by many federal departments and agencies. Homeless veterans as well as other homeless people are eligible for these programs. Homeless veterans are not limited to seeking assistance from the VA and, in fact, may be more in need of services or programs administered by other federal departments and agencies. In addition, many state and local programs have been developed to assist the homeless and these may also provide assistance to homeless veterans.

POST-TRAUMATIC STRESS DISORDER

SENATOR MIKULSKI: According to the VA's report "Reaching Out: The Second Progress Report on the VA Homeless Chronically Mentally Ill Veterans Program" (12/28/88), up to 51% of the homeless were veterans with very high concentrations of Vietnam veterans suffering from Post-traumatic Stress Disorder. How much is in the FY 90 budget for PTSD? How does that compare to FY 1989?

ANSWER: The VA's report to Congress entitled "Reaching Out: The Second Progress Report on the VA Homeless Chronically Mentally Ill Veterans Program" cited a review of recent surveys of the homeless that indicated between 18% and 51% of the homeless were veterans. Within the population of homeless chronically mentally ill veterans who were initially assessed in the HCMI Program (10,524), 51.7% served during the Vietnam era. In a separate analysis of the data on veterans who underwent a formal psychiatric evaluation (4,984), 9.3% received a diagnosis of PTSD.

The VA's 1990 budget contains a request for $1.695 million and 40 FTEE to activate 4 new inpatient PTSD programs and 1 outpatient PTSD programs. In FY 1989, the VA was provided an additional $5 million in recurring medical care funds to activate new PTSD treatment programs and/or enhance existing PTSD activities. Although these specific amounts can be identified in the VA's 1989 and 1990 budgets, they do not reflect the full amount of funding dedicated to the treatment of veterans with PTSD. Veterans with PTSD are treated in 16 Specialized Inpatient PTSD Units, in general psychiatry inpatient and outpatient treatment programs and in Vet Centers. It is not possible to identify the total amount of funding used for PTSD treatment in these various settings since the VA's national data bases are not designed to track funding by diagnostic category.

SENATOR MIKULSKI: The HUD/IA FY 89 Appropriations bill provided $5 million for treatment of PTSD, to be used at the discretion of the VA treatment programs or to support the establishment of new programs that best meet the needs of veterans suffering from PTSD (p. 26 conference report). Please describe how these funds are being used.

ANSWER: Of the $5 million appropriated for PTSD activities, approximately $4.164 million will be used to activate new PTSD Treatment Programs and augment existing PTSD programs. In addition, $75,000 will be used to support PTSD educational initiatives and approximately $760,000 will be used to support a national evaluation of PTSD programs and other PTSD treatment activities.

As of April 1, 1989, approximately $800,000 has been distributed to support treatment, education and evaluation activities. The remaining $4.2 million will be distributed over the last half of the fiscal year. New treatment program sites and funding augmentation for existing programs are being determined through application processes. All VA medical care facilities were invited to apply for funding to support PTSD Clinical Teams (PCTs). Applications were received from 83 VAMCs and we will provide funding to support 23 PCTs. Site selections should be finalized by early May, 1989. A second application process will be used to determine sites for programs to treat patients suffering from the co-morbidities of PTSD and Substance Abuse. Only VAMCs with existing Specialized Inpatient PTSD programs and Domiciliary Care Programs with an existing PTSD treatment component will be invited to apply for these funds.

SUBSTANCE ABUSE

SENATOR MIKULSKI: President Bush has stated that drug abuse is one of his special areas of concern. How does VA's budget for substance abuse programs compare to that for the overall administration?

ANSWER: The total administration budget for drug abuse was $6 billion, and the estimated substance abuse treatment expenditures for the VA for FY 1988 was $327,386,000.

SENATOR MIKULSKI: Many of the veterans suffering from Post Traumatic Stress Disorder are drug abusers. At the end of 1988 the VA had approximately 150 drug, alcohol or combined substance abuse treatment programs in operation. What is the total cost of operating these substance abuse programs in FY 89? FY90?

ANSWER: The cost of operating these programs is primarily related to demand by veterans and the medical facility directors' allocation of resources to these programs. In the current budget climate, directors are adjusting allocations to best meet the needs of veterans seeking care. As a result of these actions, we do not have an accurate estimate of the level of expenditures in FY 1989. The FY 1990 budget does not break-out expenditures for alcohol and drug dependence related disabilities.

SENATOR MIKULSKI: How many veterans received substance abuse treatment in 1988? How many do you project to treat in 1989 and 90?

ANSWER: In FY 1988, 338,189 veterans received substance abuse treatment. For the same reasons discussed concerning costs, we do not have a reliable estimate of workload for FYs 1989 and 1990.

SENATOR MIKULSKI: How many medical centers have closed their substance abuse clinics because of funding shortfalls? Are any additional clinics planning to close?

ANSWER: The following substance abuse programs have been closed primarily because of funding shortfalls:

	Beds
Biloxi	44
Buffalo	17
Manchester	14
Newington	10
Providence	30
Sepulveda	30
White River Junction	16

The following Substance Abuse Programs have been reduced:

	Beds
Atlanta	18
Hines	30
Togus	20

MEDICAL CARE -- AFFILIATION WITH UNIVERSITIES

SENATOR MIKULSKI: In FY 87 VA supported approximately 8,520 medical residency positions under VA affiliations with 102 medical schools. In the 1989-90 academic year, VA will support 175 fewer positions for a total of 8,175. Why is the number of residency positions falling?

ANSWER: In academic year 1987-1988, 8,250 medical residents were supported. The reductions made in the Education and Training program were across a broad spectrum of professions including dental residents, associated health trainees and administrative trainees, as well as medical residents. These reductions in Education and Training and other discretionary programs were necessary to permit funding of patient care in accordance with priorities established in law and to maintain quality treatment of veterans. We do not foresee the modest 2% reduction in medical residents as causing major problems with the affiliates and the training programs in general.

SENATOR MIKULSKI: What is the student/patient ratio and how has that ratio changed over the past ten years?

ANSWER: The student/patient ratio comparing medical resident positions to admissions is estimated to be one medical resident position/125 admissions in FY 1989. This ratio has been relatively constant over the past ten years; increasing from one resident position/156 admissions to the current level.

SENATOR MIKULSKI: Do your believe there should be any changes to the fundamental relationship between the hospitals and these universities?

ANSWER: Affiliations have existed since 1946, and are an important and integral part of patient care. Regulations allow for a wide range of relationships to accommodate a variety of needs throughout the country and for changes in nature of the affiliations as medicine advances. At this time, VA medical centers and their affiliates are placing more and more emphasis and action in geriatrics and ambulatory care, and more affiliations are developing consortium-like characteristics. The fundamental relationship remains firm and productive. There is no need for significant changes in these relationships at this time.

MEDICAL RESEARCH

SENATOR MIKULSKI: Medical research is an investment in health and longevity that can bring eventual long-term savings from a reduction in soaring health care costs. Recognizing this fact, the administration's overall budget proposes major increases in federal funding for medical research. Yet, I note that the proposed budget for VA medical research decreases by $13 million to $197 million. Why?

ANSWER: The 1990 President's budget request for medical and prosthetic research provides for funding of the highest priority research proposals while recognizing VA's demonstrated ability to compete for federal and non-federal funds.

SENATOR MIKULSKI: Noting the aging veterans population you serve, the VA has a definite opportunity to place a concentrated effort on research associated with the aging process. What percentage of the overall research budget has been allocated for aging research for each of the past three years? What is planned for FY 90?

ANSWER: Over the last three years, the research funding allocated to those investigators reporting their primary or secondary program area as aging and the percent of the total Medical and Prosthetic appropriation is as follows.

FY	Aging Research $ allotted/obligated ($000)	% of total
FY 87	15,251	7.2
FY 88	15,080	7.9
FY 89*	15,300*	7.3

*estimated

For FY 1990, research funding targeted for the aging process cannot be estimated until proposals and funding levels have been approved by VA's merit review boards.

GERIATRIC RESEARCH, EDUCATION AND CLINICAL CENTERS (GRECCs)

SENATOR MIKULSKI: How many Geriatric research, education and clinical centers (GRECC's) do you plan to support in FY 90 and how does that number compare to FY 89? Are all of the GRECC's fully operational?

ANSWER: In FY 90, the Department plans to support 12 GRECC's which includes the two new GRECC's at Ann Arbor and San Antonio VA medical centers. During FY 89, the Department supported 10 GRECC's, all of which are fully operational.

SENATOR MIKULSKI: Given the importance of aging research at this time, why aren't you increasing the number of GRECC's?

ANSWER: From 1975 to 1983, the Department established 8 GRECC's. Two additional GRECC's were established at Durham and Gainesville VA medical centers in 1983 and another two GRECC's were designated at Ann Arbor and San Antonio VA medical centers in 1988. The 1990 budget plans to support all 12 GRECCs.

POSTPONING FACILITY ACTIVATIONS

SENATOR MIKULSKI: The FY 90 budget (Budget Appendix I - T25) proposed to achieve savings by postponing activation of newly constructed projects. Which facilities that are ready for activation will not be activated due to medical care shortfalls in FY 89 and 90 and how will this affect VA's ability to provide medical services in this areas?

ANSWER: Facility activation dollars provide operating resources to activate completed construction projects, to anualize activation funding completed in the prior years, for partial funding for projects scheduled for completion in subsequent years, and for new leased space.

The 1989 supplemental request for VA medical care includes $78 million for equipment related to facility activations. Attachment 1 is a listing of the projects set aside for $46,000,000 of this total. If the $46 million is not provided, none of these projects can be activated. If the $46 million is provided, projects that can activate are identified with a "yes" answer. Those identified with a "no" answer are projects that will receive partial funding in FY 1989 but will require additional resources in FY 1990 and beyond to activate. Some of these "no" activations will be affected by the other $32 million included in the supplemental request for activations equipment. We have not, however, assigned these resources to specific activations at this time.

If supplemental funds are received, a reasonable timeframe to order, purchase, and install equipment and recruit personnel will be required before full activation occurs.

A policy decision was made in the 1990 budget that certain projects originally scheduled for late FY 1990 activations would be postponed to early FY 1991. The FY 1990 budget request includes $232,375,000 for facility activations in FY 1990 and reflects these postponements.

The Regional Director must make the management decision to partially activate or delay activations based on the availability of funds. This may result in the delay of the more costly replacement/modernization facilities, nursing home care units and satellite outpatient clinics. The identification of projects for postponement will be made just prior to the start of fiscal year 1990. This will allow decisions to be based on the most current information available.

Clearly, continued delay and/or postponing activation of newly constructed projects have raised questions concerning VHS&RA ability to provide medical services in this area. All activations are expected to improve quality of patient care either through capital improvements, ease of access to care, technological enhancements or a combination of these. Accordingly, delay in activation(s) represents a lost opportunity, for the time being, to improve the services being offered. We must make clear, however, that quality service continues to be provided in the meantime.

DEPARTMENT OF VETERANS AFFAIRS
VETERANS HEALTH SERVICES AND RESEARCH ADMINISTRATION
FY 1989 ACTIVATIONS
Planned 4th Quarter Allotments

FACILITY	PROJ. #	PROJECT TITLE	REGION PLAN QTR. 4	46M Restored: Will Activate
Albany, NY	500066	Renovate IC Clinics	14,000	Yes
Albuqueruqe, NM	501101	Renovation NHCU	100,000	Yes
Albuquerque, NM	301068	Renov. SEIS, Ther. & Conn. to Chill B-4	30,000	Yes
Amarillo, TX	504026	Addition and renov. of Clinical Sup	1,650,000	No
Augusta, GA	509A69	Replacement Hospital (LD) (Phase 2)	2,701,152	Yes (Partial)
Boston, MA	523049	Install dampers	5,000	Yes
Boston, MA	523075	SOPC - Lowell, MA	230,000	Yes
Brooklyn, NY	527072	Renovate Wards (8W & 13W) Building 1	168,000	Yes
Buffalo, NY	528039	Research building/clinical expansion	79,000	Yes
Buffalo, NY	528052	Educ. Facil, Wards 6A, 7A, 8D, 9C & 9D	183,000	Yes
Buffalo, NY	528068	Renovate radiology wing	568,000	Yes
Buffalo, NY	528070	Remodel Wards 6B & 6C for Geriatric	97,000	Yes
Canandaigua, NY	532073	Construct tertiary sewage treat. plant	8,000	Yes
Canandaigua, NY	532082	Renovate Building 7 to NHCU (Domino)	115,000	Yes
Canandaigua, NY	532097	Renovate Admisions area, Building 1	9,000	Yes
Charleston, SC	534015	Clinical services addition & renovation	80,631	No
Charleston, SC	534040	Engineering storage building	91,054	Yes
Charleston, SC	534045	Savannah OPC	506,492	No
Charleston, SC	534050	Radiology renovation	90,000	Yes
Cheyenne, WY	442023	Expand & Renov. Bldg. 1 for clincial	500,000	No
Chicago Westside	537029	Remodel surgical suite (O.R.)	368,000	Yes
Cincinnati, OH	539028	Remodel Morgue, Loading Dock.	30,000	Yes
Clarksburg, WV	540008	Clincial addition and alterations	189,744	Yes
Columbia, SC	544041	Addition to Building 9 (Research)	786,900	Yes
Dallas, TX	549042	Expand Cobalt Therapy	33,000	Yes
Dublin, GA	557026	Patient Privacy, Building 13	10,000	Yes
Durham, NC	558023	120 Bed NHCU, Adm. Svcs. & Research, GR	1,360,934	Yes
East Orange, NJ	561087	SOPC _ Ocean County, NJ	1,980,576	Yes (After 10/89)
Erie, PA	562024	Construct Warehouse/Prime Electric	86,640	Yes
Fort Howard, MD	566049	Replace nurse call system Bldg. 225	190,200	Yes
Fresno, CA	570019	Clinical Addition	385,266	Yes
Fresno, CA	570031	New warehouse	27,100	Yes
Fresno, CA	570035	Reconstruct MICU/CCU & Stepdown	66,357	Yes
Gainesville, FL	573033	Install diagnostic MRI	340,945	No
Hines, IL	578111	40 bed long term SCI Unit	840,000	No
Hot Springs, SD	579076	Renovate B2A, ADPT	90,000	Yes
Houston, TX	580040	Replacement/Modernization (Phase 2)	2,789,000	Yes
Huntington, WV	581044	Clinical improvement addition	9,000	Yes
Indianapolis, IN	583073	Expand SICU on E-4	90,000	No
Lake City, FL	594065	Tallahassee OPC	1,183,000	No
Lexington, KY	596A04	Clinical Addition	21,000	Yes
Livermore, CA	599076	Renovate ground floor	6,411	Yes
Long Beach, CA	600053	Construct supply warehouse	218,096	Yes (Partial
Long Beach, CA	600057	120 bed SCIU addition	1,063,399 *	Yes (Partial)
Long Beach, CA	600080	Relocate MICU, Building 126	15,962	Yes
Louisville, KY	603024	Clinical and education addition	10,000	Yes

*Includes all RMS functions and 60 beds.

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VETERANS HEALTH SERVICES AND RESEARCH ADMINISTRATION
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FACILITY	PROJ. #	PROJECT TITLE	REGION PLAN QTR. 4	46M Restored: Will Activate
Lyons, NJ	604064	240 bed nursing home care unit	66,052	Yes
Madison, WI	607035	Consolidate lab service	9,000	Yes
Manila (OPC)	358LES	Relocate Manila Outpatient Clinic(6	43,180	Yes
Marion, IL	609053	Relocate Evansville satellite OPC	20,000	Yes
Marions, IN	610074	Remodel Building 122	203,000	No
Marlin, TX	611021	Teleph system replacement	20,000	Yes
Memphis, TN	614052	Establish MRI	135,000	No
Memphis, TN	614065	Devl AMB surgery	203,000	Yes
Miami, FL	546039	Elevated parking structure	341,586	Yes
Miami, FL	546042	Provide IMC beds, 12th Floor	160,000	Yes
Miami, FL	546033	Renovate MICU/CCU	1,247,274	No
Milwaukee, WI	695104	Renovate Building 43 for Dom.	536,000	Yes
Milwaukee, WI	695125	Telephone system replacement site	20,000	Yes
Minneapolis, MN	615002	SOPC - Superior, WI	1,000,387	Yes
Minneapolis, MN	615E01	Repl. Med. Ctr. (PH 5) finish hospital	2,500,000	Yes (Partial
Mountain Home, TN	621C64	Bed towers/renovations (phase 2)	3,037,078	Yes
New Orleans, LA	629C18	Exp. Clin/OP/R&E (Ph2-addition & reno)	2,100,000	Yes
Northampton, MA	631078	Replace telephone system	4,000	Yes
Palo Alto, CA	640040	SCI addition	4,300,068 *	Yes (Partial
Palo Alto, CA	640105	Develop cardiac cath lab	490,718	Yes (Partial
Palo Alto, CA	640080	Blind center living quarters	29,502	Yes
Philadelphia, PA	624C34	Clin. Addn/Renovation/240 bed NHCU	513,314	Yes
Pittsburgh (UN), PA	646024	Outpatient Clinic addition	481,704	Yes
Portland, OR	648C37	Repl. Hosp. PH 3 (Rem.Comp.-GSB & Hosp)	274,413	Yes
Prescott, AZ	649047	60 bed nursing home care unit	604,000	Yes
Roseburg, OR	653053	Relocate ICU	61,740	Yes
Salisbury, NC	659015	Geropsychiatric Building	643,638	Yes
Salt Lake City, UT	660062	Expand radiology	380,000	Yes
Salt Lake City, UT	660132	MRI addition	150,000	Yes
San Diego, CA	664035	Spinal Cord Injury Unit/SCI/OP Clin	318,814	Yes
San Diego, CA	664036	Emerg Gen & Conserv of energy	27,799	Yes
San Diego, CA	664087	Computer room expansion	4,892	Yes
San Francisco, CA	662072	Nuclear Magnetic Resonance	34,493	Yes
San Francisco, CA	662076	Cardiac Cath Lab Expansion, Bldg. 2	716,303	Yes
Shreveport, LA	667019	Ambulatory Care Addn/Linear Accelerator	1,300,000	Yes
Spokane, WA	668023	Supply Storge Warehouse	46,920	Yes
Spokane, WA	668039	Add HVAC Plant	11,646	Yes
St. Louis, MO	657025	Cl Addn/Ward Renov./New Ambul Care	1,620,000	No (Construction delays due to change orders)
St. Louis, MO	657133	Cardiac Cath Lab Bldg. 1	1,328,000	Yes (AE Delays)
Syracuse, NY	670030	Parking Structure	43,000	Yes

* Only 54 of the 132 FTE have been funded and only 30 of the 60 beds can be activated

DEPARTMENT OF VETERANS AFFAIRS
VETERANS HEALTH SERVICES AND RESEARCH ADMINISTRATION
FY 1989 ACTIVATIONS
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FACILITY	PROJ. #	PROJECT TITLE	REGION PLAN QTR. 4	46M Restored: Will Activate
Syracuse, NY	670032	Construct nursing home care unit	67,000	Yes
Topeka, KS	677022	F&S Pat. Prvcy & Electrical Improve	500,200 **	No
Tucson, AZ	678057	Renov. 1st Flr, B-3, Dietetics	60,000	Yes
Waco, TX	685076	Renovate Building 10 & 90	900,000	No
Walla Walla, WA	6879RM		17,900	Yes
West Los Angeles, CA	691126	Bldg. 500 Remodel Gastroenterology	60,645	Yes
West Los Angeles, CA	691090	Renov. Bldg. for Domiciliary	149,385	Yes
White City, OR	6929RM		6,410	Yes
TOTAL			46,204,920	

** Construction completion delayed until 6/28/90

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Albuqueruqe, NM	501101	Renovation NHCU	100,000	Yes
Albuquerque, NM	301068	Renov. SEIS, Ther. & Conn. to Chill B-4	30,000	Yes
Amarillo, TX	504026	Addition and renov. of Clinical Sup	1,650,000	No
Augusta, GA	509A69	Replacement Hospital (LD) (Phase 2)	2,701,152	Yes (Partial)
Boston, MA	523049	Install dampers	5,000	Yes
Boston, MA	523075	SOPC - Lowell, MA	230,000	Yes
Brooklyn, NY	527072	Renovate Wards (8W & 13W) Building 1	168,000	Yes
Buffalo, NY	528039	Research building/clinical expansion	79,000	Yes
Buffalo, NY	528052	Educ. Facil, Wards 6A, 7A, 8D, 9C & 9D	183,000	Yes
Buffalo, NY	528068	Renovate radiology wing	568,000	Yes
Buffalo, NY	528070	Remodel Wards 6B & 6C for Geriatric	97,000	Yes
Canandaigua, NY	532073	Construct tertiary sewage treat. plant	8,000	Yes
Canandaigua, NY	532082	Renovate Building 7 to NHCU (Domino)	115,000	Yes
Canandaigua, NY	532097	Renovate Admisions area, Building 1	9,000	Yes
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Charleston, SC	534040	Engineering storage building	91,054	Yes
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Charleston, SC	534050	Radiology renovation	90,000	Yes
Cheyenne, WY	442023	Expand & Renov. Bldg. 1 for clincial	500,000	No
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Cincinnati, OH	539028	Remodel Morgue, Loading Dock.	30,000	Yes
Clarksburg, WV	540008	Clincial addition and alterations	189,744	Yes
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Fresno, CA	570031	New warehouse	27,100	Yes
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Gainesville, FL	573033	Install diagnostic MRI	340,945	No
Hines, IL	578111	40 bed long term SCI Unit	840,000	No
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Lexington, KY	596A04	Clinical Addition	21,000	Yes
Livermore, CA	599076	Renovate ground floor	6,411	Yes
Long Beach, CA	600053	Construct supply warehouse	218,096	Yes (Partial
Long Beach, CA	600057	120 bed SCIU addition	1,063,399 *	Yes (Partial)
Long Beach, CA	600080	Relocate MICU, Building 126	15,962	Yes
Louisville, KY	603024	Clinical and education addition	10,000	Yes

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Memphis, TN	614065	Devl AMB surgery	203,000	Yes
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Miami, FL	546042	Provide IMC beds, 12th Floor	160,000	Yes
Miami, FL	546033	Renovate MICU/CCU	1,247,274	No
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Milwaukee, WI	695125	Telephone system replacement site	20,000	Yes
Minneapolis, MN	615002	SOPC - Superior, WI	1,000,387	Yes
Minneapolis, MN	615E01	Repl. Med. Ctr. (PH 5) finish hospital	2,500,000	Yes (Partial
Mountain Home, TN	621C64	Bed towers/renovations (phase 2)	3,037,078	Yes
New Orleans, LA	629C18	Exp. Clin/OP/R&E (Ph2-addition & reno)	2,100,000	Yes
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Palo Alto, CA	640040	SCI addition	4,300,068 *	Yes (Partial
Palo Alto, CA	640105	Develop cardiac cath lab	490,718	Yes (Partial
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San Diego, CA	664036	Emerg Gen & Conserv of energy	27,799	Yes
San Diego, CA	664087	Computer room expansion	4,892	Yes
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San Francisco, CA	662076	Cardiac Cath Lab Expansion, Bldg. 2	716,307	Yes
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Tucson, AZ	678057	Renov. 1st Flr, B-3, Dietetics	60,000	Yes
Waco, TX	685076	Renovate Building 10 & 90	900,000	No
Walla Walla, WA	6879RM		17,900	Yes
West Los Angeles, CA	691126	Bldg. 500 Remodel Gastroenterology	60,645	Yes
West Los Angeles, CA	691090	Renov. Bldg. for Domiciliary	149,385	Yes
White City, OR	6929RM		6,410	Yes
TOTAL			46,204,920	

** Construction completion delayed until 6/28/90

ONE PERCENT PRODUCTIVITY INCREASE

SENATOR MIKULSKI: You are proposing a one percent productivity increase resulting in savings of $69 million. Last year you proposed productivity increases totalling $65 million. Did you actually achieve this one percent productivity increase and if not how can you justify proposing this again in FY 90?

ANSWER: The one percent productivity improvement prospectively assumes that we can treat workload with less staff. Through FY 1988, actual workloads exceeded plan. President Reagan's 1990 Budget assumed this productivity would continue based on 1988 actual experience.

MEDICAL CENTER REIMBURSEMENT FOR AIDS PATIENTS

SENATOR MIKULSKI: Last year's conference report provided $23 million (p. 26) for an additional 300 FTE for the treatment of patients with AIDS. The conference report noted that the current resource allocation methodology, how you determine how you reimburse VA medical centers who treat AIDS patients, does not fully cover the cost of treating patients with AIDS. This means individual VA medical centers are forced to raid other programs to pay for this treatment.

Has this methodology been revised to alleviate this problem?

ANSWER: This methodology is being revised. The current Resource Allocation model is based on episodes of care rather than a comprehensive package of services needed by individual patients or diagnostic groupings. (This reflects, in part, earlier attempts to make VA more consistent with the non-VA or private sector models which do not relate to a health care system providing comprehensive care but to fee-for-service, episodic care.) To base resource allocation on individuals is a major change which will take time to accomplish. In the meantime, medical center allocations need to be supplemented particularly where large numbers of AIDS patients are receiving care. It is important to note that over 50% of all AIDS

patients have been seen in eleven medical centers and 75%, in twenty-nine medical centers. A model specifically for AIDS is in the development phase which takes into account the resource consumption differences within the broader diagnostic category of AIDS.

MEDICAL CARE -- STAFFING RATIOS

SENATOR MIKULSKI: The staff-to-patient ratio in private sector hospitals in 4.13, according to information you provided for the record last year. What is the VA's average staff-to-patient ratio?

ANSWER: The 1988 actual staffing ratio (FTEE/Census) for VA hospitals was 2.50.

SENATOR MIKULSKI: VA's is considerably lower -- why is this and how does it affect quality of care?

ANSWER: Lower staff-to-patient ratios are, in part, the result of budgetary constraints, recruitment difficulties and salary restraints, and, in part, due to differences in the patient populations and treatment programs of the VA and private sector.

Quality of care is difficult to quantify. It seems likely, due to the large size of our medical care system, that the low staff-to-patient ratios will not affect quality of care at some facilities, while having an adverse affect at others. The effect on quality is monitored at the individual medical center. At facilities that are adversely affected, dedication of resources to address quality problems in one area will of necessity limit other programs and activities. Low staff ratios also impact negatively on staff morale, effectiveness and increased stress, which also are negative factors in patient care and quality of care.

RESOURCE ALLOCATION METHODOLOGY

SENATOR MIKULSKI: The Department has been studying the resource allocation methodology (RAM), which is the system which determines individual medical center's budgets. What changes are you making in the RAM as a result of those studies and how will they improve the system?

ANSWER: The RAM as applied to the FY 1990 VA Medical Center budgets, will not differ significantly from the version used for FY 1989. For FY 1991, we will continue to collect workload and related resource data from the VAMCs. This information will continue to be used for program evaluation and analysis. At this time, however, we are not certain that it would be in the best interest of the medical care program to make the annual RAM efficiency adjustment to VAMC's budget allocations based on the FY 1989 workload and resource data. Whether such an adjustment is made or not, we will continue to work on refining RAM to incorporate quality of care, workload control, and equity of access adjustments. Such refinements will be completed for the FY 1992 budget allocation process. The basic goal of the RAM initiative is the provision of the least resource consuming level of care that is medically appropriate to obtain the desired clinical outcome for the patient while maintaining or enhancing high quality of care.

SENATOR MIKULSKI: You said in last year's hearing that introduction of the ambulatory procedure groups, dialysis, and

indirect care models are being planned for the FY 90/FY 91 budget years. Is this still the plan? How much is in the budget for these activities?

ANSWER: VHSRA does not intend to incorporate any significant changes in its resource allocation methodology (RAM) for the FY 1990 or FY 1991 budget years. Therefore, VHSRA will not be considering ambulatory procedures, dialysis, and indirect models until the FY 1992 budget allocation process. Developmental work is now beginning which will lead to the refined RAM to be implemented for the FY 1992 budget year. Model development, data base administration, technical analysis, report production, systems design and educational program design are all ongoing activities of the Health Resource Management Staff in Central Office and the Boston Development Center. Developmental activities are prioritized by the Chief Medical Director and are accomplished as part of the ongoing RAM program and are not specifically budgeted.

HOMELESS PROGRAMS

SENATOR MIKULSKI: Although a total of $30 million has been authorized for the two homeless programs designed to provide health care services to homeless veterans: the pilot Homeless Chronically Mentally Ill (HCMI) program and the Domiciliary Care for Homeless Veterans (DCHV) program, you are requesting less than $25 million for both ($13.9 for the HCMI program and $10.8 million for the DCHV program). If additional funding were made available to augment VA homeless programs in FY 1990 could you use these funds effectively?

ANSWER: The FY 1990 budget request includes $30 million for the two homeless programs designed to provide health care services to homeless veterans: the pilot Homeless Chronically Mentally Ill (HCMI) program and the Domiciliary Care for Homeless Veterans (DCHV) program. This represents an increase of $6.3 million above the FY 1989 level of funding for these homeless programs. This increase in funding will further our efforts to provide needed services to homeless veterans and to perform appropriate program evaluations.

MEDICAL CARE -- AFFILIATION WITH UNIVERSITIES

SENATOR MIKULSKI: What sort of impact has in VA's deteriorating financial picture had on the medical centers' affiliation agreement with medical schools?

ANSWER: VA's budget constraints have caused some concern among medical schools and other affiliates regarding the quality of care and training at VA medical centers. We recognize affiliations as an important aspect of medical care and are working intensively with the Association of American Medical Colleges and with individual schools to maintain productive, successful relationships.

SENATOR MIKULSKI: Which of those schools (and their affiliated medical centers) have cancelled their affiliation agreements, and what are the reasons they cited for doing so.

ANSWER: Over the last few years only two schools have cancelled their affiliations with VA medical centers: New York

Medical College with Montrose, New York and University of Rochester School of Medicine and Dentistry with Batavia, New York. In both cases the termination reflected bringing agreements in line with reality. The involvement of the affiliate with the VA medical centers was minimal to nonexistent with little likelihood for future developments. In both cases new and more productive affiliation (with State University of New York at Buffalo, and with Mt. Sinai School of Medicine) were developed

SENATOR MIKULSKI: Which schools (and their affiliated medical centers) are considering cancelling their affiliation agreements?

ANSWER: Jefferson Medical College of Thomas Jefferson University, Philadelphia, PA has discussed cancelling the affiliation agreement with Wilmington, DE and Coatesville, PA medical centers. The Dean will be making a decision soon.

SENATOR MIKULSKI: How has the closure of beds in many hospitals led to a deterioration in the quality of teaching? How have cutbacks affected the ability to provide a well-rounded curriculum for medical students?

ANSWER: The closure of beds in VA medical centers has not led to a significant deterioration in the quality of teaching. The diminishing levels of back-up support, such as blood drawing teams and other support services has resulted in students and residents spending more time on these type of tasks instead of honing skills in their specialty. As problems (e.g., recruitment and budget) have continued, various VA medical center programs/clinics have been reduced or eliminated, reducing the scope of education students can receive.

SENATOR MIKULSKI: What is VA doing to keep medical schools participating in the affiliation program?

ANSWER: As a system, VA is being as creative as possible in keeping its educational and affiliated programs strong. One example of this creativity is in ambulatory care. Academic Affairs has launched an ambulatory fellowship program, and the Sepulveda, California VA medical center is taking the lead in structuring a comprehensive ambulatory care program. Program aspects that are successful will be utilized elsewhere in the system.

Central Office, working with VA medical centers, has also assisted in initiating new and innovative arrangements with affiliates. One example of this type of arrangement is the recent development of the East Hudson Consortium involving Castle Point, Montrose, and Bronx, New York VA medical centers and Mt. Sinai School of Medicine of City University of New York. This affiliation between VA medical centers with missions ranging from tertiary care to chronic psychiatric care and a medical school will have synergy not possible with only one VA medical center/medical school combination.

These sorts of initiatives are welcomed by both the VA and its affiliates.

HOSPITAL BED CONVERSIONS

SENATOR MIKULSKI: The VA budget request for FY 87 through 89 included plans to convert 630 hospital beds to nursing home care beds. How many were actually converted?

ANSWER: By the end of fiscal year FY 89, VA projects that of the 625 hospital beds planned for conversion to nursing home beds from FY 87 through FY 89, 545 beds will actually be converted. Of this 545 bed total, 161 beds were accomplished in FY 87 through 88. By the end of FY 89, 384 additional beds will be converted.

SENATOR MIKULSKI: Have all hospital bed conversions planned since FY 87 been implemented? Which facilities have converted beds?

ANSWER: Not all hospital bed conversions planned since FY 87 have been implemented. The following conversions have occurred since FY 87:

In FY 87, VA planned to convert 69 beds. VA actually converted 18 beds at the following facilities:

Facility	Number of Beds Converted
Batavia, NY	15
Cheyenne, WY	3
TOTAL	18

In FY 88, VA planned to convert 282 beds and actually converted 143 beds at the following facilities:

Facility	Number of Beds Converted
Altoona, PA	19 (Reactivation)
Brockton, MA	72
Ft. Lyon, CO	37
Roseburg, OR	15
TOTAL	143

In FY 1989, VA is planning to convert 384 beds at the following facilities:

Facility	Number of Beds Converted
Altoona, PA	14 (Reactivation)
Biloxi, MS	28
Brockton, MA	31
Ft. Meade, SD	60
Grand Island, NE	34
Knoxville, IA	60
St. Cloud, MN	96
Waco, TX	76
White River Jct., VT	-15
TOTAL	384

The number of beds identified for conversion in FY 89 is higher than the number of beds projected in the FY 89 budget submission (274) due to carryovers and additions to the list after the budget submission.

SENATOR MIKULSKI: The FY 90 budget would convert 363 beds. At which facilities does VA Plan to make the conversions and what will be the total cost?

ANSWER: VA now projects to convert 288 beds at the following facilities in FY 90:

Facility	Number of Beds
Buffalo, NY	34
Chillicothe, OH	82
Ft. Lyon, CO	37
Leavenworth, KS	75
Roseburg, OR	30
Walla Walla, WA	30
TOTAL	288

The number of beds identified for conversion in FY 90 is lower than the number of beds projected in the FY 90 budget submission (363) due to conversions completed ahead of schedule, conversions originally planned with construction that will now delay construction to a later date, delays in activations, and construction project rescheduling. The total cost for conversion would now be approximately $7.284 million.

SENATOR MIKULSKI: Does the FY 90 request include conversions previously planned and requested (but not implemented) in earlier budgets?

ANSWER: The planned conversions included in the FY 90 request lists previously planned conversions requested but not implemented in other budgets; however, the funds requested in the budget are only for conversions that have not been previously requested or which require reprogramming.

SENATOR MIKULSKI: VA assesses the need for nursing home beds through its Medical District Initiated Program Planning (MEDIPP) process. Do MEDIPP data support the need for these conversions?

ANSWER: Conversion of existing hospital beds to nursing home beds is supported by the MEDIPP data and is a means by which a significant number of the projected beds for 2000 will be attained.

VA has not done a systemwide Nursing Home Needs Assessment through MEDIPP since 1986. This assessment used the National Center for Health Statistics (NCHS) utilization rates from 1977. We will conduct another systemwide assessment during the 1989 MEDIPP cycle using NCHS utilization rates from 1985. This assessment is to be completed by October 1, 1989.

SENATOR MIKULSKI: What criteria does VA use to determine whether converting acute care beds to nursing home beds is appropriate?

ANSWER: Medical centers in conjunction with the District are required to perform a Nursing Home Needs Assessment to determine the quantity of future nursing home beds at the District and the facility level. Once the need is determined the decision on how to fill this need is made. Conversion of existing beds is one of the options facility directors consider in this decision. VA does not have a specific policy on the type of bed to be converted, but allows managers the flexibility to determine the type of beds to be converted to best address the economies and efficiencies at the specific medical facility.

SENATOR MIKULSKI: How many of the conversions are needed because current resources are insufficient to meet the expected demand at these facilities? What data support this conclusion? How many of the conversions are needed to better utilize existing beds? What data support this conclusion?

ANSWER: All of the proposed conversions are needed to meet the expected demand for long-term care.

Conversion of hospital beds to nursing home beds is intended to provide hospital management with a means to improve the economies and efficiencies at existing facilities through the better utilization of existing resources. Prior to the hospital's submission of any request (including conversion of beds) for additional VA-owned and operated nursing home beds, the medical center, in conjunction with its District, is required to perform a Nursing Home Needs Assessment. This assessment identifies the quantity of future nursing home beds needed at the District as well as facility level. Once the need is determined, a decision is made concerning how to fill this need. Directors must consider (1) State-owned veterans nursing home beds, (2) community nursing home beds, and (3) conversion of existing beds. Only after consideration of these options is new construction considered.

SENATOR MIKULSKI: What percent of unused beds are eligible for conversion each year?

ANSWER: There is no predetermined percentage of unused beds eligible for conversion each year. The percent of unused beds available for conversion each year depends on the actual number of unused beds, the number of needed nursing home beds, the parallel location of unused and needed beds, and the availability of resources to staff those beds.

SENATOR MIKULSKI: How often is the suitability for converting unused beds assessed at each medical center?

ANSWER: The suitability for converting unused beds is assessed prior to consideration of any request for additional VA nursing home beds. Following the identification of need utilizing the Nursing Home Needs Assessment which the VA requires be completed for each facility proposing additional nursing home beds, the conversion of existing beds is assessed along with the use of State-owned nursing home beds, community nursing home beds and the need for new construction. It is then determined whether the need can best be met through conversion or through any of the other options considered, given the provider mix of 30 percent VA, 40 percent community, and 30 percent state for VA's market share of 12-16 percent of the veterans expected to require nursing home care.

NURSING HOME CARE - DECREASING CARE TO VETERANS

SENATOR MIKULSKI: The Veterans Services' Organization's independent budget (p. 77) estimates that VA is currently supporting 20% of all veterans receiving nursing home care. Do you agree with this estimate? If not, what is your own estimate?

ANSWER: The independent budget is essentially correct, we currently support 19.5% of market share.

SENATOR MIKULSKI: According to the guidance used for future planning, in 2000 VA will support from 12 to 16 percent of all

veterans receiving nursing home care. If the estimate of 20% is accurate, why do you plan to support a lower percentage of veterans receiving nursing home care in the future than currently supported?

ANSWER: VA's planning target is 12 to 16 percent and, as the veteran population ages, the absolute number of veterans cared for by VA's market share of 12 to 16 percent will increase.

MEDICAL CARE -- COMMUNITY NURSING HOME PROGRAM

SENATOR MIKULSKI: You are proposing to spend about $236.6 million for community nursing home care for 25,381 patients. The budget would fall by $90 million and the number of patients supported per day would be reduced by about 7,260 (Budget Appendix I-T24). Why are you proposing to dramatically reduce funds for community nursing home care?

ANSWER: The Department made the decision to direct funds to statutorily mandated programs instead of those programs, like the CNH Program, which are discretionary.

The FY 1990 budget shows growth in the CNH Program in the out-years.

SENATOR MIKULSKI: In your FY 87 budget (5-19), you stated the goal of providing 40 percent of your nursing home care in the contract community nursing home program. Your FY 90 budget would provide only about 24 percent (6-38). Has VA changed its goal for the proportion of VA-supported nursing home patients to be cared for in the community nursing home program?

ANSWER: VA has not changed its goal for the provision of nursing home care. The proportion of care provided in VA-sponsored programs remains at 30 percent - VA-operated; 40 percent - Community Nursing Home; and 30 percent - State Home Program.

SENATOR MIKULSKI: Are fewer community nursing homes willing to take veterans? If so, what data support this conclusion?

ANSWER: There is no evidence to suggest that nursing homes are unwilling to care for veterans.

SENATOR MIKULSKI: Will the reduction in the average daily number of patients supported in the program force currently supported patients to leave community nursing homes? If they are displaced, where will they go to receive care? Will VA-owned nursing home care units have the capacity to absorb them?

ANSWER: The reduction in average daily census proposed in President Reagan's budget will be accomplished by restricting new placements into contract nursing homes. If this budget is enacted funding for the Community Nursing Home Program (CNH) would be extended, in ascending order of severity by:

(1) reducing the length of VA payment for care of NSC veterans to a period less than six months following which, for most veterans, Medicaid payment can be arranged;

(2) arranging for direct Medicaid payment for those veterans who have already established eligibility for such payment;

(3) arranging for direct Medicaid payment for those veterans who have not previously established eligibility while holding the veterans in the hospital pending approval of that eligibility; and,

(4) discharging veterans to the care of their families who make their own arrangements for continuing nursing home care.

In some cases, community nursing home placement can be avoided by the transfer of eligible veterans to State Home Nursing Programs, or by placement in other modalities of care such as Adult Day Health Care or Community Residential Care if these programs can meet the needs of the veterans in question.

SENATOR MIKULSKI: What other options are being considered for this population? How do these other options compare to community nursing home placement in terms of cost?

ANSWER: The Department has supported noninstitutional care programs that emphasize the medical and health care needs of patients. VA has established 15 VA-operated Adult Day Health Care Programs and has contracts with 68 community-based programs. The Department has expanded Hospital Based Home Care by 46 percent over four years for a total of 73 programs. The key to the success and expansion of these programs are their potential for substitution for institutional care; their ability to assist the host medical center in discharge planning; and their ability to provide quality services. The Department will continue to search for and test new modalities of care which meet these critieria.

In FY 1988 the average per diem cost in the Community Nursing Home Program was $70.83; in VA-operated Adult Day Health Care Programs, the per diem rate was $62.25; the Contract Adult Day Health Care per diem rate was $45.47; and the per diem for Hospital Based Home Care was $12.70 ($67.30/visit).

MEDICAL CARE -- NURSING HOME CARE PROGRAMS

SENATOR MIKULSKI: In fiscal year 1988, the VA expended about $980 million on its nursing home care programs to serve over 30,000 veterans. The nursing home care programs include the nursing home care unit program operated by the VA medical centers; the Community Nursing Home program that provides private sector care on a contract basis; and the State Home Program, which provides both capital facilities funding for state homes and partial reimbursement for veterans placed in these homes.

Price Waterhouse prepared a report last fall evaluating the VA's nursing home care programs. A number of recommendations were made to improve the nursing home care system.

Price Waterhouse reported that the three programs would benefit from ongoing performance monitoring by Central Office which would result in interactive planning and problem solving. Do you concur with Price Waterhouse's recommendations, and if so, what plans do you have to implement this recommendation?

ANSWER: The Price Waterhouse, evaluation of VA's nursing home care programs made 44 recommendations on the delivery of services and the management of resources. The status of the recommendations is:

9 - Completed;
2 - Global in nature and covered by specific recommendations;
5 - Pending, meaning the Department does not have control over them;
5 - Non-concurrence;
23 - Require action.

Nine recommendations addressed the potential for improving the existing system of the performance monitoring by Central Office. Of

these recommendations, 3 have already been implemented. Two of these recommendations addressed State Home Inspections and one addressed Community Nursing Home (CNH) evaluations. One recommendation, concerning consistent formats for monitoring process measures of quality of care in VA Nursing Home Care Units (NHCU), will be implemented in FY 1989. Three recommendations, addressing follow-up activities on JCAHO and SERP deficiencies, will be implemented in FY 1990. One recommendation on patient mix in NHCUs will be implemented in FY 1991. One recommendation, concerning summarizing SERP deficiencies, did not receive concurrence.

SENATOR MILKULSKI: Price Waterhouse also concluded that improved monitoring of population shifts was needed to better plan for the programs' future. It seems to me that this recommendation could be applied to the entire medical care program. Improved monitoring of demographics would lead to more effective resource management. How are you improving monitoring of population shifts?

ANSWER: VA currently has three programs underway which will result in improved monitoring of population shifts in the veteran population. Approximately every three years, VA updates the official estimates and projections of the veteran population, using the most recent information available from the Census Bureau and other sources on mortality, interstate migration, and county shifts in population. We have just completed new estimates for March 31, 1989, based on updated information, and plan to have new projections of the veteran population to the year 2040 available by mid-summer.

Further, the Department's Office of Information Management and Statistics is currently investigating several brands of commercial software which would allow us to create an integrated geographic/ demographic PC-based computer system. With this system in place, we could make better use of our veteran demographic data, particularly for areas below the state level. This system would aid planners by allowing them to generate the number and characteristics of veterans living in specified areas surrounding a particular facility.

Finally, with the 1990 Decennial Census data collection effort on the horizon, staff in the Office of Information Management and Statistics have been working closely with the Census Bureau to define VA's data needs, and work up the costs and production schedules for delivery of Census data specific for veterans. The Census is the only source of data of sufficient size to generate reliable small-area veteran population shifts; by planning in advance we intend to make maximum use of this valuable information.

SENATOR MIKULSKI: Another deficiency Price Waterhouse identified was in the area of quality assurance. Quality assurance programs were cited to be inconsistent and requiring improvements. Have you begun to implement any improvements to the quality assurance programs?

ANSWER: There were 13 recommendations on quality assurance in the nursing home care programs. The status of these recommendations is:

5 - Implemented;
4 - Will be implemented in FY 1989;
1 - Will be implemented in FY 1991;
2 - Pending promulgation of standards by JCAHO;
1 - Nonconcurrence.

SENATOR MIKULSKI: Price Waterhouse found that nursing home care units were consistently understaffed. Price Waterhouse recommended that standards could be met at no additional cost by shifting resources from RNs to Nursing Aides. Do you agree or do you feel quality might be compromised by utilizing nursing aides in certain instances rather than RNs? If you do agree, do you plan to revise staffing guidelines reflecting this shift of resources?

ANSWER: The Department does not believe that the Price Waterhouse evaluation found VA Nursing Home Care Units (VANHCUs) to be consistently understaffed. The Department did not concur with the recommendation on staffing standards because VA's staffing guidelines reflect the nursing needs of patients and should be considered as broad indicators of patients' care requirements. VA's guidelines are suggestive of the hours of nursing care, but the mix of staff (RN, LPN, NA) is not rigidly specified.

SENATOR MIKULSKI: Finally, Price Waterhouse suggested that the VA give consideration to consolidating the Intermediate Medicine and Nursing Home Care units. Have you considered such a consolidation? Please elaborate.

ANSWER: The Price Waterhouse study of VA nursing home care programs suggested that the resource consumption pattern for Intermediate Medicine patients was similar to the resource consumption pattern of nursing home care patients.

VHS&RA is currently reviewing existing criteria for VA Intermediate Care services and ways in which Intermediate Care and Nursing Home Care can be consolidated. This review will include establishing the criteria and standards needed to recognize the multiple clinical needs of older patients.

NURSING HOME CONSTRUCTION

SENATOR MIKULSKI: Because the number of veterans age 65 years and older is increasing dramatically, a major task facing the Department is to determine how to deal with the projected increase in demand for nursing home care.

Although there were 44 approved nursing home construction projects on VA's priority list for FY 89, VA requested major construction funding for just one nursing home project -- in Tampa, Florida. This project, along with four others were actually funded in FY 89.

The FY 90 budget request does not include any new nursing home construction funding. Considering the proposed reduction in community nursing home use by the year 2000, why aren't you requesting any nursing home construction funding?

ANSWER: In planning for nursing home care, the Department is committed to exploring all other options before requesting new construction for VANHCUs. The Department has refined its planning instruments over the past year to better account for available and suitable Community Nursing Home beds. This analysis, due this summer, will offer a comprehensive review of the private nursing home sector. The Department has also implemented incentives to encourage states to participate in the State Home Program. A priority system has been established which give States that have not participated in the State Home Construction Grant Program, a higher priority for funding. The Department has also developed a mechanism

to maintain an adequate per diem rate in the State Home Program. These actions should expand the pool of available nursing home care beds.

In addition to an increased reliance on the CNH and State Home Programs, the Department has focused its planning efforts on converting hospital beds to nursing home beds before requesting new construction.

These combined efforts will permit the Department to better target those locations where VA nursing home construction is necessary. These enhancements to the planning process are particularly important at this time as in light of the Department's strategy for nursing home care. The Department plans to care for 16 percent of the estimated 290,411 veterans who will need nursing home care in the year 2000. The Department plans to deliver this care to 46,466 veterans on any given day (census or ADC) through the three VA-sponsored nursing home programs: VA Nursing Home Care Units (VANHCU); Community Nursing Homes (CNH); and State Nursing Homes. It is the Department's plan to provide care to 30 percent of the veterans in VANHCUs (13,940 ADC); 40 percent of the veterans will be treated in the CNH Program (18,586 ADC); and 30 percent of the veterans needing nursing home care will be treated in the State Home Program (13,940 ADC).

VA will request new nursing home construction projects which are consistent with the overall plan for nursing home care.

NURSING HOME CONSTRUCTION

SENATOR MIKULSKI: Have any new projects been added to the priority list? If not, why?

ANSWER: No new projects have been added to the priority list. We will conduct a system-wide nursing home needs assessment during the 1989 MEDIPP cycle. We expect this assessment to be completed in October 1989. The last such assessment was completed as part of the 1986 MEDIPP cycle.

SENATOR MIKULSKI: Please provide a list of the dates and anticipated construction and activation for nursing home projects currently on the priority list.

ANSWER: The following is a list of major nursing home projects in priority order. Activation dates are not currently scheduled for these projects and, therefore, cannot be provided at this time.

NHCU Program Based on
1986 MEDIPP Data Tables for Unmet Need

Number	VAMC	Fiscal Year Tentative Schedule	Estimated Completion
1.	Mountain Home, TN	1989 1/	08/91
2.	New Orleans, LA	1989 1/	03/93
3.	Saginaw, MI	1989 1/	09/92
4.	Tampa, FL	1989 1/	02/91
5.	Wilkes-Barre, PA	1989 1/	06/91

1/ Actual Funding Year

As part of the FY 89 planning cycle, the Nursing Home Care Planning Projection Model has been updated to incorporate 1985 survey results from the National Center for Health Statistics (NCHS). The need for all proposed VA Nursing Home beds will be reviewed during this process. Those facilities requesting additional VA nursing home care beds will submit their assessments along with their MEDIPP Strategic Plan submission to VA Central Office by July 30, 1989.

MEDICAL CARE -- VA/DOD SHARING AGREEMENT

SENATOR MIKULSKI: VA and DOD currently have a sharing agreement whereby they are authorized to treat each other's primary beneficiaries, on a referral basis. To what extent have pressures to reduce discretionary VA outpatient workload affected use of VA facilities by DOD personnel under the sharing agreement?

ANSWER: Data on workload and costs of the DoD/VA sharing agreements is not available. We do, however, expect the number of such agreements to grow.

SENATOR MIKULSKI: DOD dependents are not eligible to be treated as VA facilities since they are not considered primary beneficiaries. OMB rejected an August 1986 proposal to amend the act so that VA could treat DOD dependents. Does VA contemplate submitting a legislative proposal similar to its 1986 proposal? If so, when? If not, why?

ANSWER: The VA does not contemplate submitting a legislative proposal to treat DOD dependents at VAMCs.

SENATOR MIKULSKI: How many veterans used DOD facilities under sharing agreements in FY 86, 87, and 88? How many veterans are expected to use DOD facilities in FY 89 and 90?

ANSWER: The number of veterans using DOD facilities under sharing agreements is unavailable. Continued growth in the number of agreements is projected.

MEDICAL CARE -- DoD/VA ALLIANCE

SENATOR MIKULSKI: The Disabled Veterans Association is proposing that the 172 hospitals in the VA system consolidate its activities with the 130 military hospitals and 350 outpatient facilities run by the military. This approach seems to make a great deal of sense. Where a VA hospital in an area provided one type of service and a DoD hospital another type, the two could benefit from eath other's area of expertise rather than paying private contractors to provide the service.

What is your reaction to this approach; how realistic do you think it is; and what, if any moves are underway to implement such a consolidation?

ANSWER: You are describing the Disabled American Veterans' (DAV) concept for a "new alliance" between the VA and DoD health systems. This was the essence of testimony presented to the House-Senate Veterans Affairs Committees' Joint Hearings on February 13, 1989. We have not reviewed a specific proposal, and to our knowledge, DAV has not developed a formal set of proposals for our review.

SENATOR MIKULSKI: How have funding pressures affected the creation of a new sharing agreement with DoD?

ANSWER: VA's efforts in finding more efficient and effective methods of health care delivery have intensified, and will continue to do so, under the current period of fiscal stringency.

There is no question that our relationship with DoD will grow closer as Federal funds for direct medical care become scarcer relative to inflation, need and other competing programs. Whether DAV's proposal becomes a viable option in this effort is yet to be seen, but should be thoroughly considered by the four parties involved (VA, Army, Navy and Air Force). At this point, however, we do not see a VA-DoD relationship, whatever its degree of closeness, as a panacea solution for some longstanding and increasingly disturbing problems of the four systems.

MEDICAL CARE--DOD/VA SHARING OF FACILITIES

SENATOR MIKULSKI: Under current sharing agreements, VA and DoD can share facilities and equipment. In a 1988 report GAO identified benefits of joint VA/Air Force hospitals in Albuquerque, NM. What other locations offer the potential for joint construction ventures? Is VA pursuing such ventures? If not, why?

ANSWER: Yes, in addition to the VA/AF joint venture in Albuquerque, NM, the VA is presently pursuing six other joint venture projects with the Department of Defense. These six joint ventures, with a brief description of each, are as follows:

1. Las Vegas, NV - The VA has agreed to share in the construction costs of a new Nellis Air Force Base Hospital in Las Vegas. The joint venture hospital is scheduled for occupancy in FY 1993. The VA will have 52 of 129 hospital beds. There will be many opportunities for savings which involve shared equipment purchases, consolidated procurement of supplies and sharing scarce clinical specialists.

2. Anchorage, AK - The VA has agreed to share in the construction of a new USAF hospital in Anchorage with 18 VA beds. Construction is scheduled to begin in FY 1992.

3. Tucson, AZ - The USAF has agreed to a joint venture with the VA Medical Center in Tucson. The VAMC is scheduled to replace a 60 year old bed building, and the Air Force must find a replacement for its inadequate Davis-Monthan Hospital. FY 1993 is the scheduled construction starting date.

4. El Paso, TX - The VA and Army have negotiated a joint construction venture for a new outpatient clinic facility adjacent to William Beaumont US Army Medical Center. Further, the Army had designated 105 inpatient beds for VA patients. The construction is scheduled to begin in FY 1992.

5. Lawton, OK - In FY 1991, the VA will begin construction of a new outpatient clinic adjacent to the US Army Hospital at Ft. Sill. Extensive VA-Army healthcare sharing is being negotiated.

6. Philadelphia, PA - Since October 1988 the VA and the Navy have been exploring a joint venture involving the Philadelphia VAMC and the US Naval Medical Center, Philadelphia. While, at this time, no formal joint venture agreement between the VA and the Navy has been signed, there has been sufficient high-level enthusiasm on both sides to establish an interim Joint Planning Group (JPG). The JPG will develop a proposal ("Concept of Operations") for a VA/Navy Joint Venture for subsequent review and approval of both the Surgeon General of the Navy and the CMD. The JPG is expected to present this joint proposal on or about May 15, 1989.

SENATOR MIKULSKI: In a July 1987 report GAO identified an opportunity to reduce government costs by allowing VA to use the military's aeromedical evacuation system. Has VA established sharing agreements to use the aeromedical evacuation system? If so, where? If not, why not?

ANSWER: A Memorandum of Understanding (MOU) between the Department of Veterans Affairs (VA) and the Department of Defense (DoD) was formally approved by the parties on July 15, 1988, as a result of Public Law 100-180.

The MOU provides that a VA Medical Center (VAMC) may make use of the aeromedical evacuation system only after having received training as provided by DoD in conjunction with VA. To date, 29 VAMCs, which are located near DoD aeromedical staging facilities, have received training and are permitted to use the aeromedical evacuation system. The remaining VAMCs will be permitted to utilize the system upon accomplishment of training which is yet to be scheduled. Those VAMCs are:

American Lake	Martinez	San Antonio
Seattle	San Francisco	Kerrville
Portland	Palo Alto	Biloxi
Anchorage OPC	Livermore	New Orleans
St. Louis	Columbia, MO	Marion, IL
Washington, DC	Hampton	Baltimore
Richmond	Denver	Cheyenne
Chicago-LS	Chicago-WS	N. Chicago
Allen Park	Dayton	Milwaukee
Indianapolis	Salt Lake City	

INACCURACIES IN REPORTING OUTPATIENT WORKLOAD

SENATOR MIKULSKI: After auditing several medical centers, the Inspector General's office revealed that outpatient workload was being inaccurately reported and needed improved administrative controls. The IG's report indicated that these controls could help to assure that outpatient care is being provided only to eligible veterans. What is being done to implement controls in this area?

ANSWER: The findings and recommendations of the OIG have been reviewed and evaluated. A new DHCP package was released to all field facilities effective November 1, 1988. A part of this release was a new output which allows the facilities to monitor the input of patients who fail to report for scheduled appointments by individual clinics. A directive has been issued mandating the use of this output on a recurring basis. This function was not in place in FY 1988, which partially explains the incidence of over-reporting found in the audit.

MEDICAL CARE -- PROCUREMENT

SENATOR MIKULSKI: The OIG reported that medical centers did not always use the most economical procurement methods for supplies costing less than $10,000 and identified annual savings of close to $40 million if improvements in internal controls were implemented. Are such controls being implemented? Please explain what they are.

ANSWER: Specific guidance on this Inspector General recommendation was provided to Acquisition and Materiel Management Service personnel through Office of Acquisition and Materiel Management (OA&MM) Information Letter 90-89-6, Procurement Practices for Small Purchases, dated April 11, 1989. This publication directed hospital officials to take the following actions: improve purchase descriptions, expand market research to acquire more and better competition, and reduce unjustified or excess emergency procurements. In addition, OA&MM is in the process of developing four small purchase training tapes. These tapes will cover the areas that the IG found to be problematic in the small purchase arena, as well as small purchase transportation issues. Furthermore, we are taking the following related actions to reduce costly local procurements:

a. "FASTRAC": This is a 24-hour VA supply depot priority delivery program for pharmaceuticals. This initiative provides facilities with a reduced cost alternative to local purchases.

b. Consolidated Procurements: This program combines requirements at two or more medical centers, districts, regions, VA-wide, or even with other government agencies. These actions also have resulted in higher volume purchases at lower costs.

c. Standardization: This program was established in September 1987. It was designed to reduce the total number of similar items used throughout the VA. Medical care needs are being satisfied with fewer items, and at lower prices because of the economies of scale achieved through this program.

d. Automation Enhancements: These include enhancements to the current supply automation system and a newly developed Integrated Supply Management System (ISMS). ISMS will interface with and utilize common information found in the medical center Decentralized Hospital Computer Program (DHCP). The data from these systems will be used to assist the VA in improving other programs which reduce local procurements, such as consolidation of similar items and standardization of products.

HIRING PRACTICES OF POLICE FORCE

SENATOR MIKULSKI: The Inspector General reported that improvements are needed in hiring policies for police officers at the medical centers. Apparently about 57 percent of the officers reviewed in the OIG's audit did not possess required qualifications, had criminal convictions, or were previously terminated under questionable circumstances. I am mystified as to why this has been happening on such a widespread basis. Can you explain?

ANSWER: Although the Inspector General Audit does reflect serious deficiencies in Department of Veterans Affairs (VA) police

hiring practices, the extent of the problem as described was exaggerated by the extrapolation of the results of audits of nine medical centers and 225 VA police officer records to 172 medical centers and nearly 2,000 VA police officers.

Officials of the VA Office of Personnel and Labor Relations (OP&LR) reviewed the records of VA police officers whom VA OIG officials found unsuitable, unqualified, or both. In this review, considerably fewer VA police officers were determined to be improperly employed. Case complexities and unavailability of information precluded definite determinations in all cases.

SENATOR MIKULSKI: What is being done to correct this glaring problem?

ANSWER: Based upon preliminary reports provided by the VA OIG early in 1988 which indicated deficiencies in VA police hiring practices, a comprehensive series of corrective actions including the development and implementation of additional policies and procedures was quickly initiated. In May 1988, all facilities were alerted to prepare requests for the Office of Personnel Management's Federal Investigations Processing Center (OPM-FIPC) to repeat National Agency Checks and Inquiries (NACIs) on all currently employed VA police officers. Following coordination with OPM and consultations with national union representatives, the repeat NACIs were initiated in August 1988. Concurrently, a VA police officer position sensitivity level review was conducted in accordance with Federal Personnel Manual procedures. The position was designated as Noncritical-Sensitive which resulted in an Agency decision requiring newly hired VA police officers to undergo a Minimum Background Investigation (MBI) after employment in lieu of the lesser scope NACI investigation.

In August 1988, a new Veterans Health Service and Research Administration policy was published prohibiting the employment of any person as a VA police officer "who was convicted of a serious crime or whose history reflects a disregard for laws and regulations, questionable character, or a pattern of misconduct or poor work habits." With the publication of this policy, the requirement that minimum background investigations be conducted on all new police hires was initiated along with uniform procedures for conducting and documenting the pre-employment screening of police applicants for verification of qualifications and suitability. The Director of the VHS&RA Security Service was assigned the responsibility to monitor field facilities' compliance with the VA police officer pre-employment screening requirement. This central monitoring of VA police officer applicant screening extends to the withholding of centrally issued VA police badges in any case where pre-employment screening does not meet the requirements.

MEDICAL CENTERS - FRAUD AND ABUSE

SENATOR MIKULSKI: An article in the Los Angeles Herald Examiner of March 19, 1989, claimed that "the 172 VA medical centers comprise on the most wasteful, ill-managed bureaucracies in modern history. Pilfering from canteens and stealing from supply rooms are a way of life at many centers." Examples cited include: at the Westwood, CA VAMC, more than 100 canisters of oxygen with regulators plus numerous copying machines, microwaves, VCRs and other equipment "removed without proper authority;" from various LA-area VA facilities prior to 1987 round-up, 111 wheelchairs valued at $18,000.

What are you doing to control this sort of fraud and abuse?

ANSWER: We believe that the examples cited in the Los Angeles Herald Examiner editorial are an overstatement of the facts. We can say that we do not agree with the characterization of the VA being wasteful. The VA in general and all VA medical centers have well thought out internal control mechanisms in place that are designed to protect government assets. In addition, VA police officers are trained in a procedure called "Stop and Question" designed to interdict the loss of the types of items mentioned in the article. Our records show that 69,000 "Stop and Questions" were conducted by VA police nationwide in Fiscal Year 1988. The VA assures the continuance of its efforts in the protection of government property.

RESOURCE IMBALANCES

SENATOR MIKULSKI: A recent report issued by the Inspector General's Office revealed that staffing and resource imbalances exist at five VA facilities. Specifically over 200 positions and associated annual costs of about $26 million were not supported by the project workload in various services. I understand that the facility directors concurred in our recommendations and provided implementation plans. Could you tell us at what stage these plans are?

ANSWER: The IG report referenced above is the IG Semiannual Report for the period April 1, 1988 - September 30, 1988. There were five reports cited in regard to this question: cyclical audits of VA Medical Centers, San Francisco, Brooklyn, and N. Chicago; VA Supply Depot Subsistence Management; and Construction Projects at VA Medical and Regional Office Center, Fargo, North Dakota. Many of the facility directors involved concurred in principle with the specific recommendations related to staffing, agreeing that efficiencies could be achieved. However, in most cases, they did not agree with the IG's analyses of the savings that could be achieved, and actually found the estimates of savings overstated and/or not applicable. No facility concurred that they could decrease their overall FTEE and if they did concur with a specific recommendation, the decreased FTEE in one service would be absorbed by FTEE needs elsewhere in the facility. Thus, VHS&RA believes the IG would be correct in saying that we could achieve some cost avoidances. However, there are a few specific actions we can cite: Fargo VAMC did reduce the scope of the warehouse project by $100,000 and agreed not to provide any additional FTEE. This could be called a cost avoidance of $148,470; Brooklyn VAMC did eliminate 2 Certified Registered Nurse Anesthetist positions and 1 Anesthesiologist position, however, the FTEE for these positions have been utilized elsewhere in the facility. In the cases of N. Chicago and San Francisco, efficiencies in staffing and other areas are continually being explored to effectively address patient care needs.

SENATOR MIKULSKI: Can you quantify how much savings we can expect from these actions?

ANSWER: Except for the one example (Fargo VAMC) cited in response to the previous question, we cannot quantify any savings. As stated early, VHS&RA never agreed to the cost saving figures as stated in the last IG Semiannual Report. In many cases, the cost saving figures are either overstated or misleading, in that what the

IG interprets as cost savings are really transfers of FTEE from one area of the facility to another. We agree with the IG that efficiencies can be achieved and our facility directors will continue to explore ways to meet patient care demands within available resources.

MEDICAL CARE -- THIRD PARTY REIMBURSEMENTS

SENATOR MIKULSKI: VA has the authority to require reimbursements from veteran-held private insurance plans, for care provided to nonservice-connected veterans. You plan to propose legislation to extend this authority to include veterans who have relatively minor service-connected disabilities. You estimated net receipts of $86 million in FY90. How did you arrive at this estimate? Was the proposal to include veterans with relatively minor service-connected disabilities factored into this estimate? What would be the estimate if reimbursements from these veterans were not allowed?

ANSWER: The $86 million net receipt total in President Reagan's 1990 Budget reflects two initiatives. First, the third party reimbursements from insurers of 0-20 percent service-connected veterans treated for nonservice-connected illnesses totals $62 million. The residue of $24 million reflects the proposal to collect copayments from middle and higher income, nonservice-connected veterans.

DECENTRALIZED HOSPITAL COMPUTER PROGRAM

SENATOR MIKULSKI: You plan to spend $91 million on the Decentralized Hospital Computer Program, a decrease of $28 million. Although you plan to implement the Mental Health application, you are projecting savings of $36 million to partially offset that implementation. How did you arrive at that $36 million figure and what assumptions did you make?

ANSWER: OMB requires under Circular A-11 that new ADP systems show a net savings of 10 percent, i.e., that over the life cycle the savings generated by the system exceed the cost by 10 percent.

In order to comply with this requirement, VA contracted with Price Waterhouse to conduct cost benefit studies of DHCP applications. Their study of Initial CORE demonstrated net savings/benefits as a result of certain functions within the Medical Administration Service and Outpatient Pharmacy. Their study of Enhanced DHCP found that if only measurable savings were considered, Enhanced DHCP cost more than it saved, but if possible benefits (those benefits which are less certain or more difficult to quantify, such as increases in provider productivity) were added in, Enhanced DHCP showed a positive return on investment.

As Price Waterhouse showed, there have been some real savings and efficiencies from DHCP, even taking into account the people needed to implement and maintain the program (although the bulk of the person time has been used for new activities or for activities such as means testing that were not fully funded). Price Waterhouse identified the savings through on-site work sampling and time study methodologies - literally building up the savings minute by minute. The result was a total nationwide reduction of $36.2 million and 659 FTEE in FY 1990.

SENATOR MIKULSKI: The long-term usefulness of DHCP has been questioned. What are your plans to decide whether to continue DHCP or to begin another development?

ANSWER: The question was raised in the spring and summer of 1987, when two important studies, the first by Booz-Allen and Hamilton and the second by OTA and Dorenfest Associates, validated VA's decision to proceed with DHCP as significantly more cost effective than commercial alternatives. The dramatic cost justification used then is even more relevant today, with the increased budget austerity facing VA. We have made a very significant investment in hardware, software and in developing a support infrastructure. We are now realizing the benefits of this investment in the form of expanded availability of information throughout our medical facilities. Order entry/results reporting and the clinical record prototypes are but two examples where it is now possible to take the data in the integrated DHCP database and present it to physicians in ways that are most meaningful and clinically relevant.

The DHCP is a modular and evolving system that will gradually change in character over time as appropriate new technology is incorporated, existing technology is fine tuned, and aging technology is phased out. We are taking the necessary steps to test and evaluate new and innovative technology. The Integrated Hospital System project, which will put state of the art commercial systems into five hospitals, will be a major testbed of technological innovation. To provide a path for migrating innovation into our existing platform, we are moving towards an open architecture and adoption of emerging data interchange standards for both clinical and administrative data. These will facilitate the incorporation of new technology and encourage innovation and development efforts both within our own system and by external sources.

SENATOR MIKULSKI: What criteria will you use to assess the relative benefits of continuing versus replacing DHCP?

ANSWER: DHCP is a dynamic system and is evolving to keep pace with changes in both medical and information technology. The most common and effective method for tracking and evaluating technology is the clinicians' direct involvement in using prototype systems to assist with treatment of patients and clinical decision making, as well as their educational experiences, institutional affiliations and individual professional associations outside VA. We have set up an infrastructure (the Special Interest User Groups or SIUGs) that allows these clinicians to participate in software development and evaluation of emerging technology. The Chief Medical Director's Committee on Strategic Planning for Information Resources Management has been formed from among highly qualified managers, clinicians, researchers and subject matter specialists to represent the key users of information. The committee will deliver its Strategic Information Systems Plan to the CMD this October. We have also received permission to establish a federally chartered ADP Advisory Committee, to be composed of medical and ADP experts from outside VA. This Committee will be an important source of information and insight as we develop our ADP strategy for the 1990's and beyond.

SENATOR MIKULSKI: What information will you develop to make an assessment of the benefits of continuing or replacing DHCP?

ANSWER: One of the strengths of the DHCP program has been the ability to deliver a product to the field that can be evaluated on

the basis of performance in a live hospital environment. Prototyping and piloting will continue to be key elements both in the VHS&RA approach to developing systems and in evaluating technical options. The five Integrated Hospital System test sites will also be a valuable source of new technical innovation, the best of which will be migrated to the DHCP centers of innovation to test their usefulness in the DHCP environment.

Technology that gains acceptance of VA clinicians in a live test environment is subsequently subjected to a rigorous cost/benefit evaluation following the model used in the past for other studies of DHCP. Quantitative benefits, typically cost avoidance, are derived by first identifying certain discrete processes that will be affected, and then gathering empirical data before and after automation. Some of the most important benefits, such as the recruitment and retention of highly qualified clinical staff and quality of care, are not readily measured.

SENATOR MIKULSKI: What steps have been taken to obtain the information needed to make the assessment?

ANSWER: The five Integrated Hospital System (IHS) prototype sites will provide one vehicle for testing and evaluating innovative technology offered by commercial vendors. Five DHCP sites, matched to the IHS sites in terms of size and complexity, have been designated as centers of innovation for testing the portability of this technology to DHCP. Additional facilities, at their own initiative and with the support of MIRMO and sponsoring Information Systems Centers, are undertaking research and development projects involving specific applications of technology. We have found that full commitment from local management and the local IRM staff, as well as direct involvement of clinicians, ensures that those projects are rigorously scrutinized and assessed prior to implementation. Each Information Systems Center, as part of its overall responsibility for developing packages for national distribution, serves as a clearing house for monitoring and encouraging VA and non-VA developments in the subject areas over which they have responsibility.

SENATOR MIKULSKI: When will you make the decision whether to continue or replace DHCP?

ANSWER: As we have previously stated, we do not view replacement of DHCP in its entirety as likely. Based on the OTA report, and with Congressional support and funding, we are implementing the eight applications of Enhanced DHCP. The life cycle for DHCP ends in 1996 and we are developing several sources of experience and information to enable us to formulate a strategy for moving from the current DHCP installed base to an information technology that will take us into the next century.

The experience of the five Integrated Hospital System sites and the counterpart DHCP centers of innovation will help us select the technologies that are most valuable to providers and most cost-effective. The Strategic Information Systems Plan which is due later this year will provide a framework for tactical decisions that are made every year in the budget process. This report will make recommendations to the CMD concerning:

- o major automation needs of VHS&RA;
- o identification of emerging technologies to monitor in the future;

- organization and management approaches to IRM; and
- incorporation of the SISP into the VA's planning process. In addition, the Federally chartered ADP Advisory Committee will keep the VA informed of related developments and trends in the private sector.

DEPARTMENT OF VETERANS AFFAIRS IHS PROCUREMENT

SENATOR MIKULSKI: Congress required, based on OTA recommendations, that this procurement secure commercial systems to test and develop alternative technologies to be used in the VA in the future.

To carry out Congressional intent it is important that at least one site be awarded to a vendor who can demonstrate non-MUMPS, non-DEC based solutions to ensure that the VA will not be tied to a particular hardware or language. Does the VA intend to carry out this Congressional direction in the IHS procurement?

ANSWER: The VA is fully committed to executing the Congressional mandate and believes that a full and open competition is the most effective way to acquire alternative technologies for VA hospitals. To guarantee that the VHS&RA will have the widest range of options available, the RFP calls for two separate contracts to be awarded to two different companies, one at Brooklyn VAMC, and the second at Chicago (Lakeside) VAMC, with remote support to Big Spring VAMC. The VHS&RA has established several design goals for the new IHS procurement which will result in the acquisition of systems that are both comprehensive in scope and capable of adapting to innovations in commercial technology. Among these goals, is the requirement that the IHS systems provide for interconnectivity and interoperability so that the vendor is able to interface and interact with a high degree of efficiency. This will permit the VA to obtain IHS systems that emphasize maximum flexibility, possess expansion potential, and can readily accept and support technological innovations. This requirement is also consistent with the Open Systems Interconnectivity standard (OSI) that has gained worldwide acceptance and is currently being implemented in all Federal Agencies.

If the VA were to mandate, as the Committee has suggested, that one of the IHS systems be a non-MUMPS, non-DEC based solution, it would severely restrict competition by excluding from consideration any vendor who relied in whole or in part on this technology. Action of this kind may also be in violation of the Competition in Contracting Act. An overview of the hospital information systems in the marketplace today reveals that a large number of vendors utilize either MUMPS, MUMPS based derivatives (MEESE, MAGIC, ULTI-MUMPS), or DEC hardware and software in the process of building a comprehensive system. Therefore, to restrict the use of MUMPS or DEC-based solutions would undermine interconnectivity and interoperability goals and stifle creativity and innovation. It should be noted that there are other hardware environments besides DEC that support the MUMPS language including IBM's recent entry into the field. In addition, at the existing IHS sites DEC laboratory software operates in conjunction with an IBM patient care system at Philadelphia VAMC and with a TANDEM patient care system at Saginaw VAMC.

In order to encourage the use of technological alternatives, the RFP evaluation criteria have been weighted to give additional credit to vendors whose technical approach represents an innovative platform for change and avoids relying on older generations of applications software.

As further evidence of the VA's desire to investigate new technology, there is a requirement in the RFP for the vendor to support Standard Query Language (SQL) which is a query language that is not an integral part of an ANSI standard MUMPS-based operating systems such as VA's DHCP or DOD's CHCS.

SENATOR MIKULSKI: The make-up of the VA RFP evaluation team is critical to the selection of two commercial vendors who will best serve the VA's needs to have working hospital information systems in very large , busy hospitals, in which a variety of new and emerging technologies can be tested.

Congress must be assured that VA will fully balance the selection committee to exclude DHCP stakeholders to ensure that the proposals will be evaluated fairly on the basis of proven health-care systems, not on historical experience and bias. How do you intend to accomplish this? Who will approve the selection committee members? Who will make the final decisions on this procurement?

ANSWER: The VA is in the process of establishing an evaluation panel for the IHS procurement and toward this end has requested and received nominations from medical centers nationwide. All of the hospitals that eventually participate in the proposal evaluation will do so because of a strategic interest in commercial hospital information systems. Once the panel is formed, it will consist of select clinical and administrative staff from the three existing IHS sites at Philadelphia, Saginaw, and Big Spring VAMCs. These hospitals have spent the past five years developing expertise on three of the largest systems and vendors in the HIS industry including Shared Medical Systems, McDonnell Douglas, and Electronic Data Systems and their views will be invaluable in assessing technical proposals. Given that none of the current IHS vendors is utilizing a MUMPS based solution (exception; Philadelphia and Saginaw VAMC's utilize DEC/MUMPS Laboratory Systems), having the VAMC staff on the panel will provide the depth of experience needed to review non-MUMPS based technical proposals. Furthermore, these medical centers account for three of the five test beds that will be directly involved in the permanent assessment of emerging technology.

Also represented on the evaluation panel will be key clinical and administrative staff from the Brooklyn and Chicago (Lakeside) VAMCs. These individuals will be involved in the evaluation due to their site-specific knowledge of ADP requirements. The evaluation panel will be assisted by the management consulting firm of Booz Allen Hamilton Inc.

Regarding the selection of individual evaluation panel members, the Chief Medical Director will review and approve all nominations. The VA's Contracting Officer, Office of Acquisition and Materiel Management, VA Central Office, will make the final decision on the procurement of systems at Brooklyn and Chicago, (Lakeside) VAMCs, with remote support to Big Spring VAMC.

SENATOR MIKULSKI: The RFP does not require a benchmark. The evaluation will be made on words alone - written "demonstration" of capabilities, functionality, and (most importantly) performance. It appears that the choices will have to be based on value judgments rather than actual performance. The significant problems being experienced with the CHCS procurement have occurred despite a benchmark, but with a system that was never operational in an actual hospital setting, not to mention a large environment.

The RFP should be amended to require the vendor be able to show an existing system, fully functioning in a similar size hospital to the IHS site. The evaluation team should be required to visit this site as part of the evaluation/selection process. How will the VA act to implement these requirements as part of the evaluation process?

ANSWER: The IHS systems being sought by the VA, and specified in the IHS RFP, are extremely sophisticated, and push to the limit the ability of the health care industry to provide integrated, leading edge solutions in the VA medical center environment. Unlike the original IHS procurement, which focused on a comparison of commercial systems and the DHCP in-house approach, the new IHS initiative focuses on a permanent assessment of commercial technology and adaptation of hospital information system innovations. IHS will provide VA with a mechanism for evaluating commercially available technologies in live hospital environments and for migrating promising innovations to other VA medical centers. The goal of this program is to allow VA to make more informed business decisions regarding the cost benefit of emerging hospital information system technologies and their potential for expansion to other VA hospitals.

The VA is not attempting to procure commercial systems as replacements for the DHCP system, because to do so would run counter to Congress' directive that the IHS sites be permanent test beds for evaluating emerging technology. A formal benchmark is not required for the IHS procurement because this test would only certify functionality available at the time of award. It would not measure the ability/willingness of a vendor to meet the program design goals specified in the RFP for the future.

The VA is unaware of a single vendor whose system contains all of the functionality called for in the RFP or who can be reasonably expected to develop these functions in accordance with the procurement delivery schedule. As a result, vendors have been encouraged to team among themselves in order to prepare a technically responsive proposal. In lieu of a formal benchmark, the IHS RFP does require that, following preliminary technical and cost evaluations, each vendor who is deemed to be in the competitive range, participate in an Operational Capabilities Demonstration (OCD). The OCD will provide selected vendors an opportunity to demonstrate their approach to satisfying RFP requirements and the VA additional insight to validate a vendor's ability to meet procurement objectives. The RFP evaluation panel will be scoring the vendor's OCD test and the VA Contracting Officer will apply these ratings in determining the final award.

SENATOR MIKULSKI: The RFP is structured to reward vendors with minimal, DHCP-like functioning in the first three years, and gives no weighted advantage to vendors whose off-the-shelf systems currently operate in the environment VA requires in the fourth year of the award.

The RFP should be amended to remove the disencentives to vendors to offer a fully integrated, fully functioning hospital information system from the first day of installation. The current RFP bases the pricing structure on a DHCP modular incremental approach which is more primitive than current technology in commercial systems. The current RFP approach discourages bidding by vendors with fully integrated systems, since the RFP doesn't ask for pay for such technology for four years into the contract. Is the VA interested in having a full competition for alternative technologies? If so, will you amend the RFP to allow systems with alternative technological approaches, which are not DHCP mirror images to compete?

ANSWER: The Congressional mandate to create a permanent test of changes in technology included the addition of two new IHS test sites. Unlike the first IHS sites which had no automation before commercial systems were installed, Brooklyn and Chicago (Lakeside) are running DHCP systems. Brooklyn and Chicago (Lakeside) VAMCs are highly affiliated tertiary care hospitals with several satellite structures, large patient workloads, and associated high staff turnover. With this in mind, the RFP was designed around a system that was comprehensive in scope, and yet could be phased in to prevent a major disruption to medical center operations and delivery of patient care. Consequently, the RFP delivery schedule calls for major IHS system components to be phased in gradually with the largest segment of the system being installed during the first 12 to 14 months. At the same time, there are provisions for accelerating the installations of functionality and innovations if the Department wishes to. VHS&RA's consultant, Booz-Allen and Hamilton, Inc., has surveyed the commercial hospital information systems industry to identify successful implementation strategies and have advised the VA that most commercial HIS installations require a minimum of two years to complete, and in environments where system conversions were necessary, the new system was always phased in.

In addition, it should be noted that the procurement pricing structure is sound and facilitates phased implementation and conversion. The installation strategy parallels the industry trend toward a clinical record approach.

Rather than discourage vendors who are able to offer a fully integrated system on day 1, a higher evaluation score is given to a vendor who has greater software funtionality than to a vendor who does not possess these capabilities.

SENATOR MIKULSKI: In the IHS bidders' conference, VA indicated several times that this procurement was required by the Congress, and not wanted by the VA.

The VA has funded this procurement at about one quarter of the first year, per bed costs of the original IHS awards. In this procurement there are many more mandatory requirements, the facilities are larger and de-installations will be required. The premise of this proposal is a platform to test new and emerging technology. But the funding levels appear to be requesting a stripped-down non-state of the art system. What are your expectations of vendors who are asked to provide four times as much technology at one quarter the price of the original IHS contracts? How did you come up with the cost estimates? Should the Congress provide more funding for this procurement? How much is reasonable, considering technological needs and financial contraints?

VA has not committed to ensuring non-DHCP stakeholders on the evaluation team, having at least one non-MUMPS site, requiring that the winning vendor have an installed, successful system that will be installed and adapted in the VA, and funding this program at a level that will allow it to succeed. What specific assurances can you give the Committee that the VA is committed to a fair competition that will result in technological opportunities for the VA to assist you in enhancing the current hospital information system environment?

ANSWER: The VA understands and is carrying out Congress' intention to establish permanent test beds for evaluating emerging technology. However, Congress has not, as yet, provided funding for the additional two IHS sites resulting in the Department having to re-program $1.475 million for FY 89 from other activities to fund this Congressional directive. Furthermore, new IHS systems are projected to cost $5.9 million each year thereafter. This estimate is based upon:

- o cost estimates for the functionality that is currently available in the HIS industry;
- o a more advantageous price per performance ratio for basic system capabilities now under increased industry competion than was available in 1984;
- o a significant actual decrease in computer hardware costs; and,
- o the separate pricing of innovations yet to be marketed or employed in a hospital environment.

The final cost to the VA will be determined by the procurement process and the prices received from offerors. These prices may be greater or less than the estimated cost. No funding cap has been established on the RFP for vendor proposals.

The Integrated Hospital Systems represent a far-reaching initiative to install advanced technology in VA medical centers. The VA is fully committed to executing the Congressional mandate and believes that a full and open competition is the most effective way to acquire alternative technologies for VA hospitals. To ensure that the systems acquired will provide technological opportunities, the procurement has been designed to examine the widest range of hospital information system alternatives. The systems being sought by the VA, and specified in the IHS RFP, are extremely sophisticated and push to the limit the ability of the health care industry to provide integrated, leading edge solutions in the VA medical center environment. Once installed, the IHS will provide the VA with a mechanism for evaluating commercially available technologies in live hospital environments and migrating promising innovations to other

VA medical centers. The goal of the program is to allow VA to make more informed business decisions regarding the cost benefit of emerging hospital information system technologies.

The VA is also committed to a fair IHS RFP evaluation and toward this end will be establishing an evaluation panel comprised of individuals who have a strategic interest in commercial hospital information systems. The panel will consist of select clinical and administrative staff from the three existing IHS sites at Philadelphia, PA; Saginaw, MI; and Big Spring, TX, VA Medical Centers. Given that none of the current IHS vendors are utilizing a MUMPS-based solution, having the VA medical center staff on the panel will provide the depth of experience needed to review non-MUMPS based technical proposals. In addition, clinical and administrative staff from the Brooklyn, NY, and Chicago (Lakeside), IL, VA Medical Centers will sit on the panel. The latter will be involved in the evaluation due to their abiding interest in the outcome of the procurement and because of their site-specific knowledge of ADP requirements.

MEDICAL RESEARCH

SENATOR MIKULSKI: Page 7-3 of your justifications state that VA funds support approximately 2,800 VA investigators at present. How has this number changed over the past ten years?

ANSWER: The following table presents the number of investigators funded by fiscal year starting with 1980 data.

Year	No. of Investigators Funded From Medical and Prosthetic Appropriations
1980	2341
1981	2464
1982	2398
1983	2469
1984	2503
1985	2753
1986	2818
1987*	2547
1988**	2789
1989**	2700

*includes DoD appropriation transfer

**includes DoD reimbursement funds - estimated of FY 1989

SENATOR MIKULSKI: What percentage of the total number of proposals with merit will VA be able to support in FY 89? FY 90?

ANSWER: In FY 1989 the VA is supporting 2,700 research programs from a base of 3,760 proposals. Most of these studies were approved and funded for a three-year period. In FY 1990 we estimate that 2,350 research programs will receive support from a base of 4,050 proposals, a funding level of 58 percent.

SENATOR MIKULSKI: How has the renaming of the Department of Medicine & Surgery to the Veterans Health Services and Research Administration (P.L. 100-527) changed the role of the research program in the VA?

ANSWER: The VHS&RA's research programs continue to be an integral and vital component of the health care system.

SENATOR MIKULSKI: The administration will be spending $1.6 billion on AIDS research in FY 90. What portion of that will go to the AIDS? Given that the VA will treat 10% of all new AIDS patients in FY 90, do you believe VA will receive an adequate portion of the total $1.6 billion?

ANSWER: None of the $1.6 billion identified for AIDS as part of the special initiative in AIDS funds for FY 1990 or prior years has come to the VA for AIDS research. VA is encouraged to compete for NIH grants relating to AIDS research.

BENEFITS
NEED TO REVISE MEDICAL CRITERIA FOR RATING DISABILITIES
(GAO/HRD - 89-28)

SENATOR MIKULSKI: GAO recommended in a December 1988 report that VA revise its medical criteria for rating disabilities and systematically review the rating schedule to keep it medically current. Do you plan to follow GAO's recommendations?

ANSWER: The GAO recommended that the VA prepare a plan for a comprehensive review of the rating schedule and, based on the results, revise medical criteria accordingly. It also recommended that the VA implement a procedure for systematically reviewing the rating schedule to keep it updated. The VA concurred with both recommendations. Because an Inspector General (IG) audit already requires a review of veterans receiving compensation for hemodialysis and kidney transplants, it was decided that the first body system in the rating schedule to be reviewed should be the genitourinary system.

SENATOR MIKULSKI: Will physicians from outside the VA or from the military services participate in the revisions?

ANSWER: The preliminary paperwork for an advance notice of proposed rulemaking (ANPRM) regarding the genitourinary system is currently in the internal concurrence process. It is intended to advise the public that the VA is undertaking a review of a specified portion of the rating schedule and will invite comments and suggestions on how best to proceed. The VA would welcome comments and suggestions from physicians outside the VA or from the military services as we would from any other segment of the public. Furthermore, non-VA physicians would also have the opportunity to submit comments or suggestions following publication in the Federal Register of any proposed revisions to the rating schedule.

SENATOR MIKULSKI: What is the timeframe for coming up with the revised rating schedule?

ANSWER: Present plans call for publishing proposed amendments to the genitourinary system in October 1989 with final rules being published in April 1990. The VA is just beginning what it anticipates will be a lengthy regulatory process. The procedure will be repeated for each of the other body systems in the rating schedule. Once the review of each body system has been completed, the review process will be repeated. The VA plans to have at least one body system under review at all times.

SENATOR MIKULSKI: Do you believe that updating the schedule will increase or decrease the cost of benefits provided to veterans? Do you have any cost estimates?

ANSWER: The VA cannot provide a definitive response at this time. Any increase or decrease in the cost of benefits provided to veterans will depend upon the results of our reviews of the various body systems and any proposed revisions to the rating schedule. Cost estimates would be premature as no revisions to the rating schedule have yet been proposed.

BENEFITS -- PAYMENT ACCURACY

SENATOR MIKULSKI: The FY 90 budget includes $15 billion for compensations and pensions for about 3.6 million veterans and survivors. What is your current payment accuracy rate and how is that computed? If no rate exists, do you believe that it is important to know the accuracy of your payments?

ANSWER: We believe that it is important to know the accuracy of payments made by the Veterans Benefits Administration (VBA) however we do not currently compute an overall payment accuracy rate. We use statistical quality control (SQC) as a systematic review of claims processing to determine whether quality is being maintained at an acceptable level and to determine when action to improve quality is necessary. The SQC methodology, however, was not designed to supply a national error rate. We would be pleased to meet with you and provide a comprehensive explanation of our extensive adjudication quality control systems and our plans to supplement existing systems to devise national payment error rates.

SENATOR MIKULSKI: Do you have a system to develop claims processing error rates for the compensation and pension programs? If not, how are error rates developed?

ANSWER: We do not currently have a system to develop separate claims processing error rates for the compensation and pension programs. Using suggestions given to us by Price Waterhouse in a study of our SQC methodology, we are developing methods for providing a national error rate, defined by program.

SENATOR MIKULSKI: Do you believe you have adequate staff to carry out quality control functions? If not, how many additional staff are needed?

ANSWER: VBA believes that it is adequately staffed to carry out its responsibility in quality control. However, VBA is constantly reviewing this aspect of its program and will request additional staff should it become necessary to meet our responsibility.

SENATOR MIKULSKI: I am very concerned because the Inspector General's report identified numerous abuses in the benefits program resulting in overpayments of millions of dollars. What are you doing to curb such abuses?

ANSWER: Veterans Benefits Administration (VBA) has taken over from the Office of the Inspector General (OIG) the State Wage Match program as one means of verifying income as reported by our beneficiaries. VBA has proposed legislation in the past, and will

do so again this year, to obtain a match with the Internal Revenue Service (IRS) as recommended by the Office of Inspector General in the past and the General Accounting Office in its March 1988 report on veterans pensions. VBA believes that the IRS match would be far superior to any other method of verifying income because IRS records reflect reported income from all sources.

LOAN GUARANTY REVOLVING FUND

SENATOR MIKULSKI: I understand that the Veterans Benefits Administration has undertaken some management initiatives to address the condition of the VA loan guaranty program. Can you give me an update on their efforts?

ANSWER: The Loan Production System (LPS) is designed to automate certain Loan Guaranty work processes which are now primarily manual. The project consists of four separate portions. Those are Code Sheet Elimination (CSE), Construction and Valuation (C&V), Loan Processing (LP) and Property Management (PM).

The CSE phase of the project will do away with the manual preparation of paper code sheets and teletype input for the other four LGY batch subsystems (PLS, LCS, PMS, GLS). Instead, there will be menu driven data entry via terminals featuring on-line editing of input data. This portion of the project is fully installed at four regional offices. The development and programming of CSE is complete. Full implementation to the remaining stations awaits funding of needed software licenses and hardware.

Two closely related phases of the LPS project are on-line database production systems that support Construction and Valuation and Loan Processing activities in regional offices. These phases will automate the issuance of certificates of reasonable value, loan commitments and Loan Guaranty certificates, as well as manage correspondence, provide appraisal and loan tracking capabilities, and transfer all required data to the GI Loan statistical system (GIL). The Construction and Valuation portion is installed at three prototype sites. The first Loan Processing prototype was installed in February 1989. It is anticipated the second LP prototype will be installed in May 1989. It is anticipated that these phases will become operational and ready for general installation (subject to funding of hardware and software licenses) during the late summer or fall of 1989.

The Property Management phase of the project is an on-line production system for the management and control of properties in the VA inventory. It will automate title acquisition, repair procedures, sales listings, purchase offer processing and property sales closings. Contractor assistance for the design and development of the Property Management portion of the project is to begin no later than June 3, 1989. The first Property Management prototype is expected to be installed in March, 1990. Prototyping and development activities for this phase should be complete in 1990.

The Houston Loan Servicing Project is an attempt to deal with the dramatic rise in foreclosures in the region. Using funding provided by Congress specifically for such purposes, Houston's

Loan Service and Claims section has hired 10 new technical and clerical employees on a temporary basis to perform personal servicing with delinquent veteran-borrowers. We are testing to see whether more effective servicing contributes directly to a reduction in costs to the Loan Guaranty Revolving Fund through decreases in guaranty claims and acquisition activity. This pilot project is proceeding as scheduled, with evaluation scheduled in November 1989.

Reducing Claims Processing Time is the goal of a third management initiative in Loan Guaranty. In connection with liquidation of GI loans, VA is generally required to pay loan holders a claim under loan guaranty for the amount of the debt that it is unable to recoup at foreclosure sale up to the amount of maximum guaranty. Delay in payment of such claims results in further losses for holders, increased inquiries to VA, and delay in establishment and cancellation of the corresponding veteran's debt to VA. VA has now established and is monitoring goals for our field stations to achieve with respect to elapsed processing time for claims processing.

LOAN GUARANTY REVOLVING FUND -- ALTERNATIVES TO FORECLOSURE

SENATOR MIKULSKI: There are alternatives to foreclosure when a borrower fails to make payments on a VA guaranteed loan -- refunding, whereby the terms of the loan are restructured; a compromise agreement, which enables the veteran to sell the property with VA's financial assistance; and voluntary conveyance of the property deed.

How frequently have you used each of the three alternatives to foreclosure in each of the last three fiscal years?

ANSWER:

Fiscal Year	Refundings	Compromises	Voluntary Conveyances (VC)
1986	253	N/A	1,620
1987	208	N/A	1,287
1988	257	N/A	1,224

The compromise claim procedure has recently been emphasized, and a report counting compromise claims was first made available for FY 1989. For the first half of FY 1989, there were 123 compromise claims processed.

SENATOR MIKULSKI: What was VA's use of the alternatives as a percent of foreclosures in the last three fiscal years?

ANSWER:

Fiscal Year	Foreclosures	Refundings	Compromises	VC
1986	34,642	.7%	N/A	4.7%
1987	43,316	.5%	N/A	3.0%
1988	47,712	.5%	N/A	2.6%

SENATOR MIKULSKI: How much do you estimate it saves, on

average, by using each of the alternatives rather than foreclosing on a loan?

ANSWER: Approximately 30.5% of refunded loans are subsequently foreclosed. Therefore, 69.5% are saved. Accordingly, we save 69.5% of the average loss per foreclosure ($20,082), or $13,957 per case. (Virtually all loans refunded by VA would otherwise have been foreclosed.) This savings is, to some extent, offset by additional costs to the Government when refunded loans must be foreclosed.

Data showing the average claim in compromise cases is not readily available (we would have to review the individual loan folders at each regional office to obtain this data). However, we do not approve a compromise unless doing so will decrease VA's loss in comparison with the loss we would incur if the loan was foreclosed.

We save an estimated average of two months' interest (and other charges), and benefit from reduced legal costs in voluntary conveyance cases. Two average monthly payments total approximately $1,300, and we save about $200 in legal fees per case, for a total estimated savings of $1,500 in voluntary conveyance cases.

SENATOR MIKULSKI: VA calculations made to determine whether it is desirable to foreclose or use an alternative to foreclosure assume full recovery of all debt established against the veteran as a result of VA costs incurred in acquiring, maintaining, and selling a foreclosed property. However, only about 14 percent of the debt is ever collected. Why don't you use a more realistic figure for collectible debt in this calculation?

ANSWER: VA does not use any specific set of calculations in deciding whether a veteran can best be assisted through an alternative to foreclosure, or whether no such alternative is practicable. Each case is reviewed on an individual basis, taking into account the veteran's situation and the best interest of the Government. Use of a model (based on past debt collection experience) to estimate the amount of a loan guaranty debt which would be repaid to the Government could result in the establishment of debts against veterans who have no ability to repay. It could also result in the acceptance of deeds, with a release from liability, from borrowers who may have willfully defaulted or who do have the ability to reimburse the Government for the complete amount of our loss.

SENATOR MIKULSKI: When deciding whether to foreclose or use an alternative to foreclosure, why do VA loan service officers not consider (1) the portion of VA costs charged to veterans that is never collected; (2) the interest income lost on funds used to acquire and hold property; or (3) the price discount that VA allows on cash offers for properties sold?

ANSWER: (1) This question was addressed in the preceding answer.

(2) Including the imputed interest cost of holding properties in inventory pending sale will more realistically reflect the true cost to the Government of a decision to provide the holder of a loan the option of conveying the property to VA after foreclosure. However, alternatives to foreclosure, other than a private sale assisted through a compromise claim payment, involve

VA acquiring either a loan or the property. Accordingly, there would normally be no reason to take the cost of Government funds into account when alternatives to foreclosure are considered.

(3) Possible cash sale discounts are not considered when VA determines the net value of a property prior to foreclosure. They are also not considered when VA reviews alternatives to foreclosure with a veteran homeowner. The reason is that such discounts are a marketing tool applied at VA's discretion. There is no necessary relationship between VA's use of cash sale discounts to sell some acquired property and the practicality of alternatives to foreclosure or the value of a property at foreclosure; further, cash discounts may be amended or discontinued at any time based on current market conditions.

RECOGNITION OF COSTS IN DECIDING WHETHER TO ACQUIRE PROPERTIES

BACKGROUND:

* The Deficit Reduction Act of 1984 required that VA limit its total loss on a foreclosure to the amount of its guaranty on the loan.

* However, in determining whether to acquire properties or leave them with lenders, VA does not consider the interest costs associated with holding the properties in VA's inventory before selling them. Nor does VA consider costs associated with a reduction in the value of property after it is acquired or discounts offered to sell the property for cash.

SENATOR MIKULSKI: In how many cases during FY 88 did VA acquire property and incur a loss in excess of the guaranty amount? Why did this occur?

ANSWER: Our summary reports do not contain information regarding the number of acquired property sales during FY 88 which resulted in loss exceeding guaranty amount. We have requested a report from DPC Austin to determine the requested information. After we receive and review the report, we will provide you with a further response.

SENATOR MIKULSKI: Why does VA not consider inventory holding costs in its acquisition decision process? How many properties did VA acquire because interest costs were not included and what were the additional costs to the Government as a result?

ANSWER: Including the imputed interest cost of holding properties in inventory pending sale will more realistically reflect the true cost to the Government of a decision to provide the holder of a loan the option of conveying the property to VA. This, in turn, would ensure that VA would not acquire foreclosed properties except when it is in the best interest of the Government to do so. Accordingly, the Secretary approved an Initiation Paper for such action on January 4, 1989 and a proposed amendment to 38 CFR 36.4301 to accomplish this was published in the Federal Register for comment on March 31.

The costs saved in not acquiring property will be partially offset over time by the fact that VA will not realize income from

the sale of the property. (In general, VA receives and 80-85 percent return on the resale of acquired property.) For budgetary purposes, however, the loss of future collections from the sale of properties would not be felt for at least three years given the size of VA's property inventory and assuming current projections of foreclosures and sales.

SENATOR MIKULSKI: In making its acquisition decision why doesn't VA consider other costs such as the reduction in property value while held in VA's inventory and losses due to cash discounts?

ANSWER: Properties may increase or decrease in value while in VA's inventory, depending on changes in local market conditions. Attempts to predict such market fluctuation at the time of foreclosure would be speculative and not, in our opinion, consistent with the definition of "net value" in 38 USC 1832 (c)(1)(C). Cash sale discounts are not considered when VA determines the net value of a property prior to foreclosure because they are a marketing tool applied at VA's discretion. There is no necessary relationship between VA's use of cash sale discounts to sell some acquired property and the value of a property at foreclosure; further, cash discounts may be amended or discontinued at any time based on current market conditions.

SALE OF ACQUIRED PROPERTIES FOR CASH

BACKGROUND:

* The Deficit Reduction Act required VA to sell at least 25% but not more than 40% of its acquired properties for cash.

* The 1987 Veterans Home Loan Program Improvements and Property Rehabilitation Act increased the cash sale requirements to at least 35% but not more than 50%.

* In August 1987 VA reported that its average loss on cash sales increased after the 1987 Act was passed, probably due to the incentives it offers to encourage purchasers to pay cash. VA said it would continue to review the use of incentives to determine which are cost effective. The study had not been completed as of January 1989.

SENATOR MIKULSKI: Why did you change your maximum discount for cash sales from 10 to 20 percent?

ANSWER: In response to the statutory mandate that cash sales comprise 25 to 40 percent of all acquired property sales during FY 85 - 87, we were able to achieve 27.5 percent in FY 85, 33.8 percent in FY 86 and 33.9 percent in FY 87. Auctions were used during these 3 fiscal years to supplement cash sales brokered through our open sales listings which offered a 10 percent maximum discount for cash offers. When the mandated cash sale percentages were increased for FY 88 - 90, we discussed alternative measures to encourage more cash sales with our field stations and with real estate professionals in various parts of the country. Based on those discussions, and our experience with the 10 percent maximum

discount, we concluded that it would be necessary to increase the maximum cash discount to achieve the required percentage of cash sales. However, we directed stations to consider local real estate market activity and specific property conditions when determining the actual amount of cash discount on particular properties.

SENATOR MIKULSKI: Why do you accept any qualified cash offer over any noncash offer which exceeds the list price? Are there not cases in which the non-cash offer should be accepted in the interest of economy?

ANSWER: Competing cash and non-cash offers are prioritized under 3 conditions related to list price:

- o When competing offers are at or above list price, the highest net cash offer receives priority.
- o When competing offers are below list price, the highest offer receives priority, regardless of terms of payment.
- o When one offer is at or above list price and the other is below, the offer at or above list price is selected, regardless of terms of payment.

So, an offer at or above list price will always receive priority over a below-list offer, regardless of terms of payment. GAO has recommended that we review our policy giving preference to cash offers over offers requiring VA-seller financing. As a result, we are currently examining the cost effectiveness of the present criteria giving priority to cash offers over term offers which are substantially higher. The calculation of the relative financial benefit of any "above-list" seller-financed offer has been complicated by the upfront discounts that occur in non-recourse sales of vendee loans and the fact that these sales need to be evaluated on a net present value basis.

SENATOR MIKULSKI: Do you believe that it is in the best long-term interest of the government to continue offering discounts as high as 20 percent to sell properties for cash?

ANSWER: The 20 percent maximum was authorized to promote cash sales in market areas where stations experienced greater resistance to sales not financed by VA. The stations determine appropriate cash discounts based on local market activity and specific property conditions. Many stations routinely sell acquired properties with cash discounts lower than 20 percent. Even with a maximum 20 percent available, the market can be expected to competitively "bid down" the discount, resulting in a selling price higher than the minimum acceptable price for cash offers. However, based on our review of the percent of cash sales FYTD (50.3 percent), we have directed stations to limit cash discounts to not more than 10 percent for the balance of FY 89.

SENATOR MIKULSKI: Since a bid by a third party at a foreclosure sale is a cash offer, would it be prudent for VA to encourage more successful third party bidding for properties by establishing a minimum bid amount for lenders which reflect VA's acquisition and disposition costs, including cash discounts?

ANSWER: In our experience, most third party bidders at foreclosure sales are speculators who are only interested in

acquiring properties for substantially less than their fair market value. Any practice which stimulates third party bidders to acquire a significant number of veteran-owned properties through foreclosure sales would represent disposal of potential Government assets for far less than their value, and would serve to increase VA's average loss.

AUTOMATED DATA PROCESSING MODERNIZATION

SENATOR MIKULSKI: Last year the Department initiated a 12-point plan to modernize automated support for its benefit programs. I understand the project will be implemented in 13 stages. What is the status of this effort and how long will it take to fully implement this system?

ANSWER: The Veterans Benefits Administration (VBA) has made significant progress during the past year in addressing the 12-point plan. Last year, VBA awarded contracts to analyze and document its programmatic workload projections and to analyze and define telecommunications traffic, security requirements and network requirements at the regional office and data processing center levels. In addition, VBA completed an inventory of its current hardware and an analysis of Benefits Delivery Network (BDN) system operation and maintenance costs.

While receiving no additional funding for the 12-point plan in 1989, VBA has begun to analyze information on agency data requirements and to gather information on parallel processing technology and distributed processing configurations in preparation for the major decisions to be made concerning the modernized environment. Completion of these tasks forms an essential base upon which further modernization initiatives will be built.

With anticipated 1990 funding, VBA will complete its initial studies of BDN processing and software migration alternatives, develop its functional requirements documents and initiate the development of detailed requirements for procurement of the modernized system. Providing VBA receives its requested level of funding, we anticipate conducting these procurements between 1992 and 1994 with full implementation in 1995.

SENATOR MIKULSKI: You plan to spend $25 million on the 12-point plan in FY 90. What will be the total cost of implementing the plan?

ANSWER: It is not possible to estimate the total cost of the plan until the studies planned for FY 89 and 90 are well underway.

SENATOR MIKULSKI: Have you established measurable goals and objectives for the modernization program? What are the goals for reducing the administrative costs of providing benefits?

ANSWER: Step one of the 12-point plan was the establishment of modernization goals and associated measurable programmatic objectives. The three goals of modernization are: (1) Provide quality ADP services responsive to the mission needs of VBA regional offices and program managers; (2) Provide, in support of the mission of VBA, a modernized benefits delivery and management information system that is integrated, flexible, secure,

accessible and easy to maintain; and, (3) Ensure effective user support in VBA's ADP program by providing high quality planning, policy making and training of personnel.

Within these goals, the administrative costs of providing benefits will be reduced in two significant ways. First, the conversion of VBA's current systems and the development of a single, integrated benefits delivery and management information system will increase flexibility and improve productivity for program managers within VBA, and at the same time provide for easier and less costly maintenance. Second, the automation of manual processes, where feasible, will result in significant cost savings over the current labor-intensive processes.

SENATOR MIKULSKI: What consideration has been given to improving service to veterans through the modernization program? Have measurable service improvement goals and objectives been formulated? If so, please describe them.

ANSWER: The single overriding purpose of the entire modernization program is the improvement of service to our veterans. Within this, measurable service improvement goals and objectives have been identified. Following are the five major goals of VBA: (1) Provide quality benefits and service delivery systems that are fully responsive to the needs of veterans and dependents; (2) Minimize the cost of VBA operations; (3) Increase the options available to management to respond to changing needs and demands; (4) Institute and maintain controls to prevent the incidence of waste, fraud, and abuse; and (5) Provide quality ADP services responsive to the mission needs of VBA program managers and regional offices.

Within each of these goals are specific, measurable objectives. For example, Goal (1) has, as one of its objectives, improving the quality and timeliness of processing by improving accuracy by 20 percent and by reducing the elapsed time from receipt of application for benefits through completion by 20 percent.

SENATOR MIKULSKI: One of the 13 interim projects is intended to address two aspects of the loan guaranty program: processing loan applications faster and reducing the time it takes to sell foreclosed properties. How will the modernization of the automated support for the loan guaranty program reduce the number of defaults and their associated costs?

ANSWER: As part of the implementation of the Code Sheet Elimination (CSE) portion of the Loan Production System (LPS) Phase One project, substantial improvement is expected in internal work flow and control in the Loan Service and Claims function. Under the current environment, work flow is interrupted by searches for and review of loan files to correct transcription errors. Supervisory and technician manhours are diverted from essential default servicing, particularly personal contacts with delinquent borrowers by telephone. CSE will allow more efficient use of work hours by technical employees permitting more servicing contacts.

SENATOR MIKULSKI: Please identify any other benefit programs where savings, in addition to reducing administrative costs, can be achieved by providing more timely and complete information?

What plans do you have to improve the automated support for these benefit programs?

ANSWER: A number of VBA programs could also realize significant savings through provision of more timely and complete information. This is achieved primarily through providing VBA regional office personnel with on-line access to data to facilitate their work. This principle is behind several of the short-term initiatives on which VBA is currently working.

Through one of these, Local Access to CAROLS, all VBA adjudicators are given on-line access at their workstations to the Consolidated Accounts Receivable data base. This enables the adjudicator, in the course of processing a claim, to determine whether the veteran or beneficiary has an outstanding debt to the government, and, on the basis of that information, make an adjustment in the amount of the award.

Another project which benefits VBA by providing more timely and complete information is the Fiduciary and Field Examination Project (F&FE). Through this project, Veterans Services personnel at the regional offices can exercise more effective oversight of fiduciaries who have been designated to manage the fiscal accounts of infirm veterans. Implementation of this project will help to ensure that mismanagement or improper use of these accounts does not occur.

SENATOR MIKULSKI: What sort of return on our investment do you estimate we will get, in terms of savings?

ANSWER: VBA's 1990 budget submission estimated a total savings of 344 FTEE based on implementation of the short-term initiatives. We will revise these estimates if necessary during the 1991 budget process.

IMPACT OF NO-BIDS

SENATOR MIKULSKI: The Mortgage Bankers Association of America (MBA) has reported that 70% of the lenders contacted in a recent survey indicated that they would restrict their participation in the VA program if the rules were changed to increase the number of no-bids. Also VA's share of fixed rate mortgage originations as compared with FHA's has declined sharply since no-bids started in 1984. Is the VA concerned about the long term impact the cost of funds the proposal will have on the ability of veterans to obtain VA financing?

ANSWER: The VA is of course always concerned about the ability of veterans to obtain financing using their VA entitlement. However, we are also concerned with the high cost of the program over the last several years. We believe that VA's diminishing share of fixed rate mortgage originations is more likely due to a variety of factors including the declining veteran population. To date we have no evidence of veterans being unable to secure a VA loan due to non-participation of lenders.

SENATOR MIKULSKI: There is evidence that shortfalls in the Veterans' Administration (VA) Loan Guaranty Revolving Fund (LGRF) have been caused by geographically concentrated economic difficulties. Historically there are cyclical downturns of

relatively short durations. In light of this, does VA believe it is doing long range harm to the program by taking steps such as increasing no-bids which are a disincentive for lenders to participate?

ANSWER: We do not believe that there will be long range harm done to the program by changing the calculation for no-bids. There is no change in the basic guaranty and the VA continues to honor in full every appropriate claim thereunder. The purpose of allowing lenders to convey properties to the VA was always to allow the Government to reduce the Government's loss. The increase in no-bids is simply due to better forecasting as to whether there is truly any salvageable value in the property that might reduce the Government's loss. Even with an increase in the number of no-bids we expect lenders to continue to participate in providing this important benefit. Although the number of no-bids has increased since we began using the current formula, we have not seen lenders refusing to make VA-guaranteed loans. In fact there appears to be increasing lender interest in our program as evidenced by the number of new applications for automatic lending authority that are continuing to be submitted.

CAPITAL FACILITIES STUDY

SENATOR MIKULSKI: In FY 84 and FY 85, VA received a total of $9.4 million to conduct a Capital Facilities Study, which was released in January of 1989. The purpose of the study was to analyze the status of the physical plants of the VA medical centers. My understanding is that from an engineering standpoint, it is an excellent study. I'm curious about the applicability of the study, however. Did the study take into account such factors as shifting demographics or possible mission changes?

ANSWER: The Capital Facilities Study (CFS) was performed for current occupancy of buildings only and did not include shifting demographics or possible mission changes. These issues are being addressed in the MEDIPP process.

SENATOR MIKULSKI: How will this study be used?

ANSWER: The VA medical centers are using the Capital Facilities Study to prepare five-year plans and project justifications for construction and non-recurring maintenance projects. Central Office personnel are using the Capital Facilities Study to evaluate and prioritize the VA medical centers' projects, analyze system requirements, and prepare the Facility Development Plans.

SENATOR MIKULSKI: The study indicates that $1.45 billion would be needed to correct all systems in facilities built prior to 1970, which received poor, failing or critical ratings. How long do you estimate it will take to rectify these problems?

ANSWER: The VA has already made significant strides in addressing these deficiencies. Beginning in 1989, the CFS information has been used to guide in the selection of NRM projects for funding with the concentration on those facilities and system components most seriously deficient.

We estimate that with current funding most deficiencies for all 132 facilities studied will be corrected in the next five to

seven years. A general breakdown of our current progress is listed below:

- Twelve percent of the deficiencies have been corrected or funded for correction. For example, the Cleveland (Wade Park), Ohio, and Montrose, New York, facilities identified as two of the three hospitals in the -2 or "failing" category, have $14 million and $8.8 million worth of projects, respectively, under design or construction to correct most of the identified deficiencies. These two, and the third facility that received a -2 rating, Cincinnati (Fort Thomas Division) have been funded for Facility Development Plans.

- Sixty-six percent of the deficiencies have been included for correction in individual VA medical center five-year plans.

- Twenty-two percent of the deficiencies remain to be planned and funded.

MAJOR CONSTRUCTION -- OMB REQUEST

SENATOR MIKULSKI: What was your original request to OMB for major construction?

ANSWER: VA's original request to OMB for major construction was $596,675,000 and included the following projects:

	($ 000)
Allen Park/Detroit, MI, Replace. & Modern.(C)	$ 10,000
Bonham, TX, Domiciliary Replacement	12,400
Cleveland, OH, Regional Office	18,600
Columbia, SC, New Psychiatric Building	10,600
Dublin, GA, Outpatient Clinic	9,500
East Orange, NJ, Relocate/Consolidate Research	3,100
Fort Snelling, MN, Gravesite Development	3,050
Gainesville, FL, 290 Bed Psychiatric Building (D)	8,900
Jefferson Barracks, MO, Gravesite Development	4,430
Knoxville, IA, Laundry Replacement	5,500
Lake City, FL, 120 Bed Nursing Home Care Unit	8,000
Las Vegas, NV, VA/Air Force Joint Venture Medical Center Nellis Air Force Base	9,300
Long Beach, CA, Structural Seismic Corrections (D)	6,000
Lyons, NJ, Renovate Building 53	10,700
Montgomery, AL, Relocate Regional Office to Agency-owned Grounds	7,200
Nashville, TN, Clinical Improvements and Patient Privacy	39,900
Newington, CT, Medical Center Modernization (C)	53,745
Newington, CT, Relocate Regional Office to Agency-owned Grounds	7,300
Palm Beach, FL, New Medical Center (C)	112,025
Reno, NV, Clinical & Bed Addition (D)	8,850
Salisbury, NC, Renovate Building 21 for Nursing Home Care and Administrative Uses	9,000
Salt Lake City, UT, Renovate Building 1	26,600
Salt Lake City, UT, Spinal Cord Injury/Rehabilitation Center and Canteen	16,000
Temple, TX, Bed Addition	46,300
Waco, TX, Renovate Buildings 4, 7 & 11	19,200
Wilmington, DE, Clinical Addition	28,800

The remainder of the request included funding for the advance planning fund, design fund, asbestos abatement and hazardous waste abatement line items.

SENATOR MIKULSKI: Which projects were dropped from the original list?

ANSWER: The following projects were not included in President Reagan's FY 1990 budget request.

Allen Park/Detroit, MI - Replacement and Modernization
Bonham, TX - Domiciliary Replacement
Cleveland, OH - Relocate Regional Office to Agency-owned Grounds
Gainesville, FL - 290-Bed Psychiatric Building
Knoxville, IA - Laundry Replacement
Lake City, FL - 120-Bed Nursing Home Care Unit
Montgomery, AL - Relocate Regional Office to Agency-owned Grounds
Nashville, TN - Clinical Improvements and Patient Privacy
Newington, CT - Relocate Regional Office to Agency-owned Grounds
Reno, NV - Clinical and Bed Addition
Salisbury, NC - Renovate Building 21 for Nursing Home Care and Administrative Uses
Temple, TX - Bed Replacement Building
Wilmington, DE - Clinical Addition

MAJOR CONSTRUCTION

SENATOR MIKULSKI: The Congress provided funding for 19 major construction projects in FY 89 (Conf. Rept. p. 28; budget 27-45). The law required that (1) working drawing contracts be awarded by September 30, 1989; and (2) construction contracts be awarded by September 30, 1990. The law also required VA to report to the Comptroller General and to the Appropriations Committees any projects that did not meet these time limits. Were these directives followed?

ANSWER: VA is making every attempt, as we do each year, to comply with this legislation. To date, only one project, the Dallas, TX, Clinical Addition/Renovate Building 2 and Spinal Cord Injury project is not expected to be awarded by September 30, 1989. This project was added by Congress. It was not included in VA's budget request to OMB because the project was not developed enough to meet the legislative requirement that a working drawing award be made by September 30, 1989. Currently, all projects are scheduled to have construction awards by September 30, 1990. If there are working drawing or construction slippages, these will be reported to the Comptroller General and to the Appropriations Committees.

SENATOR MIKULSKI: Why do you believe that you do not need to report a project on which a contract for the primary construction activity has not been awarded?

ANSWER: VA has many construction projects in which the construction portion is performed in phases. Phased construction

is a method of accomplishment and is particularly used to perform projects in the Replacement and Modernization category. Often times such projects require that a relatively minor portion, such as excavation, be performed prior to the commencement of the primary contract. Ordinarily once such a contract is let, the next phase of the project is awarded when this first phase is complete. VA does not consider this phased approach to be an impoundment of funds. Awarding a first phase meets the spirit and intent of the appropriation law.

SENATOR MIKULSKI: Why do you not report a project for which a contract has not been awarded because the original funds were insufficient and for which additional funds have been requested or received?

ANSWER: VA does not report a project in cases where substantial scope has been added to a project such that it is being presented in the budget as an entirely new project. Such projects must be re-prioritized and are considered on an equal footing with new projects. The new appropriation obviates the need to report these projects because the construction contract time limit is extended. VA does report projects which are not awarded because the low bid exceeds the original funding and for which additional moneys are reprogrammed to the project from the major working reserve. Only in cases where a new appropriation is requested through the budget process does the VA not report such a project.

SENATOR MIKULSKI: Do you have written criteria for determining which projects should be delayed? If not, why not? If not, will criteria be developed?

ANSWER: Criteria for determining which project should be delayed has not been developed because projects are not purposefully delayed. We cannot predict delays. Delays occur as a result of unforeseen circumstances. What we are developing is a written criteria for the reporting of delays in awarding major appropriation design and construction contracts.

CONSTRUCTION - HAWAII HOSPITAL

SENATOR MIKULSKI: Last year's conference report provided $3 million for advance planning funds to begin advanced planning and environmental impact studies for a new medical center in Hawaii. What is the status of that effort?

ANSWER: Advance planning has begun for the new medical center in Hawaii. A site selection board has been established along with site selection criteria, such as general size and location desired. A request for offers to donate or purchase land will be published in May. A request for offers (as required by Public Law) to lease or purchase existing facilities will also be sent to local facilities. When the site selection process has sufficiently advanced, an environmental impact statement (EIS) will be prepared for our preferred sites. We are prohibited from

obligating funds for any site specific design work until the EIS is completed (planned for January 1991) and design funds are appropriated. We are diligently striving to meet or improve upon our planned schedule.

SENATOR MIKULSKI: What is the cost differential between constructing a VA hospital in Hawaii and building an addition at Tripler Army hospital nearby?

ANSWER: We are unable to answer this question until further details become available.

To be realistic, site/facility comparisons cannot begin until we have received responses to our requests for donation/lease/purchase of a site in the designated area.

When looking at possible construction at Tripler, factors such as: reuse of existing space; land availability for new construction; potential sharing of equipment and staff; and other issues will be examined.

Our site selection process encourages this sort of analysis. We send letters to existing medical facilities in the area where we propose to locate the new facility. These letters request offers to lease or purchase existing facilities. We welcome a response from the Army concerning Tripler Hospital. We will then be able to compare it with other offers.

QUESTIONS SUBMITTED BY SENATOR LEAHY

MONUMENT SERVICE

SENATOR LEAHY: In letter dated March 1, Wilfred L. Ebel, Chief Memorial Affairs Director, informed me that the Veterans Administration is considering a modification to VA specification X-1704-G. I intend to closely follow the progress of this proposal and would like to be kept fully informed about any changes in these modifications. When can a decision be expected?

ANSWER: Monument Service is reviewing the specification at this time. A modification, if one is made after final analysis, is envisioned, realistically, for the preparation of solicitation documents for FY 91.

SENATOR LEAHY: What is the process for making modifications to a VA specification? How are proposals to change modifications made and who reviews their merit?

ANSWER: When preparing revisions to VA specifications, the coordinating activity (Monument Service) circulates a draft of the proposed modification by letter to industry for comments. The letter includes a date by which comments are due. Essential comments received in response to the proposed revision are resolved between the coordinating activity and industry prior to submitting the draft revision to the preparing activity (Office of Acquisition and Materiel Management). If the draft is acceptable, the preparing activity approves it for printing, distribution, and indexing as a VA X-series specification. Proposals to change specifications are usually initiated by coordinating activities in response to Government requirements. The preparing activity reviews the assigned description to determine whether it is accurate and current for procurement purposes.

SENATOR LEAHY: Mr. Ebel noted in his letter that the Monument Builders of North America (MBNA) had alerted the VA that lithochroming is "not the commercial operation of choice in manufacturing long lasting memorials." Doesn't the VA require lithochrome on its marble markers? Why is there any concern about lithochrome on granite markers?

ANSWER: The VA does require lithochrome on veterans' markers made from marble. However, unlike marble which is white stone that needs lithochrome on the inscription until natural shadowing takes effect, veterans' markers manufactured from fine-grained light gray granite and incised to the proper depth should not need lithochrome to enhance the readability of the inscription. The color and grain selected for granite markers is to provide a natural contrast between the marker's finished surface and the incising which should allow the inscription to be read from a reasonable distance. The concern about putting lithochrome on granite markers has to do with under-incising the inscription and its readability. Lithochrome on granite markers can easily hide under-incised inscriptions. In the industry, lithochrome is considered a cosmetic touch with a short life expectancy.

SENATOR LEAHY: Who has raised concerns about lithochroming on granite markers besides MBNA? Have there been any complaints registered by the families of veterans?

ANSWER: Prior to the initial specification change in 1986, the Barre and Elberton Granite Associations agreed that lithochrome applications on monuments is not an accepted industry practice. This was substantiated by the Monument Builders of America. It is applied only at the customer's choosing and is not guaranteed. Families of veterans' complained about the granite markers without lithochrome manufactured from Woodbury granite stock and for this reason the Service modified the specification in 1987 to allow lithochrome on Woodbury granite markers only. The following cemeteries were impacted by the failures to present a readable granite marker made from Woodbury Granite:

Massachusetts National Cemetery, Bourne, MA
Indiantown Gap National Cemetery, Annville, PA
Rhode Island Veterans Cemetery, Exeter, RI

It was the concerns of these varied locations that triggered Monument Service to reexamine the cause of the complaints. Our temporary solution is the allowance of lithochrome on Woodbury Granite markers and the analysis being conducted presently.

VA RESEARCHERS

SENATOR LEAHY: Last year, I included language in the HUD and Independent Agencies bill that directed the VA to cover unforseen costs on research proposals approved before January, 1987. These proposals were prepared by VA investigators who were unaware that term employees would be covered by the Federal Employee Retirement System (FERS). I intend to offer similar language again this year and would like to know the amount of unreimbursed FERS costs on VA research grants for FY 1990.

ANSWER: The estimated FERS cost is $3 million.

MOBILE CLINICS

SENATOR LEAHY: Last year, the HUD and Independent Agencies Conference Report included language that permitted the VA to use up to $3 million for mobile clinics to provide health care in rural areas. What is the status of this pilot program? Are there any mobile health clinics in use today?

ANSWER: The Veterans' Benefits and Services Act of 1988, Public Law 100-322, was approved on May 20, 1988. Among many other matters, it authorizes the Chief Medical Director to conduct a two-year pilot program to evaluate the use of mobile health clinics for eligible veterans residing 100 miles or more from the nearest VA health care facility, contingent upon funding. Subsequent to enactment of Public Law 100-322, the conference report accompanying H.R. 4800, of the 1989 Appropriations Bill, contained language authorizing the VA to use up to $3 million of existing resources for this program.

Since specific appropriations were not included in the VA's Fiscal Year 1989 Appropriations Act and because of competing priorities, we have not moved forward with the mobile health pilot

program. Similarly, funding priorities precluded the Chief Medical Director from implementing other discretionary measures contained in Public Law 100-322. During this period of budget constraints, expansion in the form of eight mobile health clinics, with the necessary shifting of resources away from existing programs and medical centers, does not seem warranted.

We will continue to provide the fullest possible geographic access to care for veterans. Within the past several years, in response to Congressional initiatives, as well as local VA medical center outreach efforts, we have expanded ambulatory care services considerably to veterans who live in dispersed, isolated settings. A recent survey of our facilities showed we operate over 200 outpatient activities outside our basic medical centers, and approximately one-half of these activities involved mobile teams going to various community locations to provide primary care, mental health services, and post-hospital follow-up.

Other innovative health care delivery mechanisms being used in rural, remote areas, include VA community-based clinics, sharing arrangements with non-VA community health care providers, and fee-basis care.

Considering the overall budgetary situation of the agency at the current time, we believe the combination of efforts being made now in rural and remote areas is a reasonable response to the known needs. In the event the funding situation improves, other options, including these mobile pilot clinics, will be considered.

MEDICAL AND PROSTHETIC RESEARCH

SENATOR LEAHY: VA research yields important medical advances that benefit all Americans. The VA system provides a unique opportunity for distinguished researchers to work in medicine, rehabilitation and health services. How would the cut in medical research that was proposed by President Reagan affect VA investigators around the country?

ANSWER: Assuming the Reagan request for medical and prosthetic research and no additional Department of Defense reimbursements, obligations will be reduced by $31,982,000. Contributing to the reduction in obligations is the completion of the DoD collaborative studies initiated in FY 1987.

We have chosen to obligate most of the FY 1989 DoD funds available for two years during the first year. In 1989, we will obligate $14.5 million of $17.0 million in DoD reimbursable funds to continue the VA/DoD programs initiated in FY 1987, FY 1988, and FY 1989 (October 1, 1989, funding).

Assuming that no additional DoD funds will be available, we will terminate approximately 365 ongoing projects on September 30, 1989. The reduction in the number of research projects is largely the result of reduced reimbursables from DoD in FY 1990.

QUESTIONS SUBMITTED BY SENATOR FOWLER

VETERANS POPULATION PROJECTIONS

SENATOR FOWLER: Mr. Secretary, as you know, one out of every ten Georgian is a veteran, and at least twice that many have a veteran in their immediate family. In the last ten years, I understand that the veteran population in Georgia has increased by a third or so, while nationwide, we have seen a small decline the the veteran population of about five percent in this period.

Georgia is a great place to live, and it wouldn't surprise me at all if every serviceman who had ever been stationed at Fort Stewart or Warner Robins or Fort Benning (as I was) wanted to relocate permanently to Georgia. I am sure, however, that other states in the sunbelt are experiencing similar increase in their veteran populations. I am wondering if your have run any figures on this growth and projected what the needs will be five, ten, twenty years from now in Georgia and the Southeast?

How do you plan to respond to these changes? You obviously cannot move facilities from New York and Michigan and Ohio to Georgia and Florida, but that's where the veterans are moving.

ANSWER: Following are veteran population projections for the states of Georgia and Florida:

	Georgia	Florida
1988	652,535	1,484,250
1995	651,568	1,519,920
2000	634,712	1,461,545
2010	576,589	1,238,241

The Veterans Health Services and Research Administration's health care planning process, Medical District Initiated Program Planning (MEDIPP), was established to ensure that future health care plans address the impact of the changing veteran population. The MEDIPP process mandates that planning for facilities and services be based on patient service needs and demands as documented by demographic and utilization data. Needs assessment analyses are conducted by medical districts at least biennially. MEDIPP plans for the Southeast Region which include the states of Alabama, Florida, Georgia, Kentucky, Mississippi, South Carolina and Tennessee include a projected VA nursing home care level of 2,080 beds; an increase of 1,300 over the current level of 780. The number of nursing home beds are projected to increase by a total of 174 and 600 for the states of Georgia and Florida respectively. By the year 2000, hospital beds are projected to increase by 2,079 over the current level to 13,459. The projected bed level includes proposals for three medical centers to be established in the State of Florida; however, only West Palm Beach, Florida has been approved for a 400-bed medical center to be constructed in 1990. Additionally, outpatient visits are projected to increase by the year 2000 to a level of 3,781,451; a 25 percent increase over the 1988 level of 3,021,454.

PROPOSED CLOSING OF DUBLIN SURGICAL UNIT

SENATOR FOWLER: Mr. Secretary, as you may know, an ad hoc VA task force last year made the recommendation to the VA District Planning Board for Georgia that the surgical unit at the VA facility in Dublin be closed. This would drastically cut the services

provided to over 100,000 veterans. Although the surgical unit is supposedly all that would be closed, its closing would break down the functioning of the entire facility, which serves an area of Georgia already lacking for doctors and medical facilities.

My colleague Roy Rowland held a hearing on this proposal last December, at which many of these concerns were raised and the recommendation discredited. However, to date we still have no official word as to whether the Dublin surgical unit is still on some hit list or not. What is the status of this proposal?

ANSWER: There is no plan, approved or pending, to close the Surgical Service at the Carl Vinson VA Medical Center in Dublin, Georgia. The Medical District 9 Surgical Task Force in question was formed to conduct a program assessment as part of the routine requirement for mission review in our Medical District Initiated Planning Process. Its recommendations will not be implemented.

SENATOR FOWLER: I am pleased that your FY 90 budget submission includes $5.4 million as the first of two installments on construction of a one-story outpatient clinical addition, which is sorely needed. I understand that a second story has been contemplated for this addition given the increase in veterans in this area, and I am wondering why that was not included in your request and when you anticipate requesting funds for it?

ANSWER: The Outpatient Clinic Addition project, VAMC Dublin, GA will provide major improvements for many outpatient, clinical, and support services. When this project was planned, expansion capacity was included to provide flexibility in meeting future program needs. At the time, those needs were not adequately identified. Subsequently, a project to utilize the expansion capability of the new outpatient addition has been identified and is included in the Medical Center's Five Year Facility Construction Plan and will be considered for funding in FY 1994 in accordance with system-wide priorities and available resources. The inclusion of this project at this time would delay the construction of the FY 1990 Outpatient Clinic Addition for several years.

PROPOSED SAVANNAH OUTPATIENT CLINIC

SENATOR FOWLER: Mr. Secretary, for some time now there has been a proposal to open an outpatient clinic in Savannah, Georgia, to serve the growing veterans population along the coast of Georgia and South Carolina. If this facility were to open tomorrow, your projections show that 23,000 veterans would visit it in the next year, but for now veterans are being transported by shuttle bus from the Savannah veterans center to the hospital in Charleston, two hours away. This seems a lot to ask a sick veteran to do -- to drive an hour or two to Savannah and then sit in a van for two hours -- to get the care promised him.

I understand that a director has already been hired for this so far non-existent medical center. The building you will rent has been chosen, and over a million dollars worth of equipment has been ordered, but so far no services are being rendered to veterans. Can you tell me the status of this proposal? When do you plan to open this new facility and begin providing services?

ANSWER: An outpatient clinic is planned for activation at Savannah, Georgia in early FY 1990. At the present time the clinic is under construction with completion expected by mid-September

1989. The building, upon completion, will be leased to the VA by the contractor under a long-term lease agreement. It is correct that equipment needed to activate the clinic has been identified, however, it has not yet been ordered or funded pending a decision on the amount of supplemental funding which the Department and the Southeastern Region will receive. The VA is committed to activating the Savannah Clinic, however, the scope or extent of activation will be dependent on the availability of resources. We expect a decision on this issue within the very near future.

It is correct that a Chief Medical Officer has been selected. Dr. William Gee, as well as several administrative staff, were hired in December 1988, and have been involved with preparations for activating the new clinic. As part of these preparations, a van has been purchased for the purpose of transporting patients and supplies between the Savanna. Outpatient Clinic and the parent medical center at Charleston.

Since January 1989, this van has been utilized to transport veteran patients to scheduled appointments at the Charleston VA Medical Center. We agree that sick veterans should not be required to endure a two hour ride to Charleston, however, only those veterans who are physically able are transported by van. Dr. Gee has also set up a temporary administrative office at the Vet Center in Savannah and is pursuing potential sharing agreements with local hospitals and specialty clinics in the area. No medical services are presently available at the Vet Center and the services provided by Dr. Gee and his staff are limited to assistance in transporting veterans and scheduling appointments at the Charleston VA Medical Center. As previously stated we project that the Savannah Outpatient Clinic will be activated in the early part of FY 1990.

PREVENTIVE MEDICINE

SENATOR FOWLER: In my discussions with VA employees and doctors in Georgia, one topic that frequently presents is the lack of emphasis within the VA -- and among veterans themselves -- on preventive medicine. According to these doctors, they often don't see a patient until he has contracted a disease that has already progressed too far. Veterans apparently are waiting too long to seek treatment, and they are not getting the kind of helpful advice on diet and exercise and other habits that would help them stay healthier longer.

Have you done any studies on this? Have you got any estimates of how much money this might be able to save the taxpayers and how much pain and suffering it could save veterans? What sort of health education or outreach program do you currently have? Are you planning to increase your emphasis in this area?

ANSWER: To date, neither the VA nor any other health care organization has conducted and published a large, longitudinal randomized study on the cost benefits of preventive medicine. Most medical care professionals and the majority of the general public believe that prevention and early detection are probably cost effective. It seems unlikely that anyone would argue against preventing a heart attack or stroke as compared to the cost, pain and suffering of a veteran experiencing a myocardial infarction or a cerebrovascular accident. The VA has had a preventive medicine program in operation since FY 1985, and it is gaining in momentum every year. Each VA facility has a Preventive Medicine Coordinator

who is responsible for monitoring the implementation of the program at the facility and is the station liaison for preventive medicine activities. The program stresses ten risk factor interventions based on areas of high mortality and morbidity in the VA patient population, existing program capacity, and Department goals and objectives. These are: hypertension screening, alcohol and drug abuse counseling, nutrition and weight control, smoking cessation, physical fitness and exercise, influenza immunization, colorectal cancer screening, osteoporosis counseling, breast and cervical cancer screening, and serum cholesterol determination and modification.

Each year emphasis has been placed on one of the identifiable risk factor interventions. In 1987, the emphasis was on colorectal cancer screening. Smoking cessation was emphasized in 1988, and cholesterol screening is highlighted in FY 1989.

Health care professionals in the VA continue to be enthusiastic about providing preventive medicine service to VA patients particularly in view of the aging population, shift toward more ambulatory care, and in meeting the needs of women veterans.

A major preventive medicine program initiative under consideration for the future, is the establishment of Cardiovascular Risk Factors Clinics. These clinics would screen healthy veterans for the following risk factors: cholesterol, hypertension, obesity, and smoking. If two or more risk factors are found, a veteran would be referred to the program. Through intervention, education, and follow-up, a reduction in risk factor values should result, thereby reducing the incidence of cardiovascular disease.

While the VA endorses an increased preventive medicine program, it is unlikely that the program will be expanded beyond its current scope in consideration of other priorities in the VA budget.

DECATUR FACILITY EXPANSION

SENATOR FOWLER: I know that work is continuing on a major expansion at the VA's facility in Decatur, Georgia, which serves the Atlanta metro area and over two-thirds of the veterans in Georgia. I would appreciate an update on the status of this construction, whether it is proceeding on schedule, and whether you anticipate any problems.

ANSWER: A Clinical Addition and Parking Garage project was approved for construction in the FY 89 Budget for $54,200,000 plus $9,000,000 for the Parking Revolving Fund. Design funding for $6,800,000 was approved in the FY 88 Budget. The total approved project funding is $70,000,000. The project is being developed in three major phases as follows:

Parking Garage, Phase I:
This phase was originally scheduled to be awarded for construction in April 1988. The award has been delayed for five months to September 29, 1989, due to late discovery of underground utility easements, expressed resistance from environmental groups and the recent passing of a bill by the Georgia State Legislature restricting construction near state water ways. We are working with the County and State Officials to resolve the problem.

Clinical Addition, Phase II:
This phase is a five story Clinical Addition which was scheduled for a construction award in August 1990. The construction award will be delayed by five months to February 1991 due to the delay in the Parking Garage.

Renovation, Phase III:
This phase renovates spaces in the existing facility which was vacated by functions that are relocated to the new Clinical Addition building. This phase was scheduled to be awarded for construction in June 1992 but will also be delayed by five months to December 1992 due to the Parking Garage delay.

RECRUITMENT OF NURSES

SENATOR FOWLER: Mr. Secretary, when I talk with veterans in Georgia and with employees of VA medical care facilities in Georgia, one topic sure to come up is the lack of nurses at VA facilities. In Augusta, we have 67 beds out of service because we haven't been able to hire almost 50 nurses (25 registered nurses and 24 licensed practical nurses). Decatur and Dublin face similar problems, and I know the nationwide nursing shortage is hurting the VA's entire program. Can you please describe what you are doing to address this problem? What funds or authority are you seeking in your FY 90 budget submission that will help the VA train or recruit more nurses?

ANSWER: The following actions have been taken to improve our recruitment and retention of nurses:

- The third annual Survey of Health Occupational Staff is underway. The data, which should be available in late May 1989, will be used to assist in the evaluation of recruitment and retention trends throughout the Department. This data will assist in the development of the expanded data base to assist in the analysis of staffing and potential shortages.
- We are in the process of implementing an image enhancement program to improve our perception as a preferred health care employer. This campaign will initially focus on efforts to improve the recruitment and retention of nurses, pharmacists, occupational and physical therapists, and other scarce occupations.
- A VA Task Force recently convened February 1989 to examine the current Title 38 pay system for nurses and to develop strategies for improvements in both the administrative and legislative arenas.
- In March 1987, the Chief Medical Director charged a Task Force to study problems of recruitment and retention of nonphysician health care workers to make recommendations for their long term solution. The Task Force agreed that, in most geographic areas, the VAMCs do not provide keen competition for quality health care personnel when compared to the private and university affiliated hospitals, falling short in at least one of the following categories: base salaries, benefit packages, workload or staff/patient ratio, effective recruitment and publicity efforts, and

amenities of the workplace. An Action Plan has been developed and approved to implement the recommendations of the Task Force.

- o A new DM&S program office, called the Office of Health Care Staff Development and Retention, has been established and is responsible for the execution of the Action Plan developed to implement the approved recommendations of the Task Force. In addition, this office will give national focus to recruitment and retention efforts and concerns and serve as an information clearinghouse.

- o Also, we are in the process of implementing the following established under Public Law 100-322, "Veterans' Benefits and Services Act of 1988":
  - Mandatory Saturday Premium Pay for registered nurses;
  - Tuition reimbursement for those employees pursuing nursing degrees;
  - Study of various alternative pay, personnel management, and benefit practices in the interest of improving its competitive recruitment and retention stance;
  - Child care center operation at VA facilities.
- o A variety of regional and local initiatives are being monitored throughout the system. These efforts will be formalized into a clearinghouse function that will serve to ensure the broadest dissemination.

We are seeking funding for the FY 90 budget ($1,813,000) and FTEE (112) for the VA Learning Opportunities Residency Program. This program was developed as a recruitment tool to measurably increase the number of BSN prepared nurses in specific hard to recruit clinical areas.

QUESTIONS SUBMITTED BY SENATOR KERREY

SUPPLEMENTAL

SENATOR KERREY: What is your deadline on the supplemental -- when do you have to have the additional funding?

ANSWER: The requested supplemental was needed by the beginning of the Third Quarter in order to allow VHS&RA to maintain an appropriate FTE level and balanced workload level. Without the requested supplemental, both workload and FTE have decreased, due to constraints on resources available to VHS&RA to appropriately fulfill its mission. Further reductions of increasing magnitude may be anticipated until VHS&RA facilities are in actual receipt of supplemental funding.

SENATOR KERREY: You propose shifting $11 million from beneficiary travel to medical care in fiscal 1989. Why are these funds available--do they represent a mis-estimate, changes in beneficiary reimbursements or what?

ANSWER: The $11 million comes from a proposal to discontinue payment/reimbursement under the all-other category for beneficiary travel at mid-year 1989 except for emergency, special mode, C&P examinations and interfacility transfer.

SENATOR KERREY: You indicate that another $20 million is available in fiscal 1989 due to lower than expected costs in CHAMPVA. What accounts for the "lower than expected costs?"

ANSWER: The cost per billing has been lower than originally estimated. In addition, the number of claims is down, primarily due to a purge of ineligible beneficiaries under the centralized CHAMPVA concept.

SENATOR KERREY: Because of the shortfall in medical care funding in fiscal 1989, facilities were asked to absorb costs. Understandably, various facilities sought to absorb the costs in various ways -- with the result that there were inconsistencies in services offered. Isn't there a fairer way to make reductions -- so that a veteran will be treated the same way no matter what facility he goes to?

ANSWER: VHS&RA has taken a number of steps to ensure equity of access for all veterans. In recent years, geographic shifting in demands for care and VA's restricted ability to respond to such shifts have resulted in geographic imbalances in the amount of care available to veterans throughout the VHS&RA health care system. Specifically, veterans in discretionary workload categories B and C have been affected disproportionately in certain areas of the country.

The FY 1989 budget policy established an objective of regional equity of access to care. This policy was driven by the need to constrain total workloads to available levels of funding while striving for regional equity of access.

A phased, 3-year plan to achieve geographic equity of access was adopted, based on the assumption that financial adjustments based on equitable allocation of discretionary workload would have the effect of equalizing access to care throughout the VA health care system. VHS&RA has directed Regional Directors to develop plans for achieving equity of access, taking into consideration the quantity of discretionary workload to be undertaken by each facility.

AVAILABILITY OF CARE

SENATOR KERREY: Your statement indicates that hospital and outpatient care will be available to "those veterans whose care VA is obligated by law to provide. Care will continue to be provided to all service-disabled veterans who request it, as well as to former prisoners of war, veterans exposed to toxic substance and radiation, and all lower and middle income veterans as well as to most higher income veterans who apply. In addition, all veterans in need of emergency care, regardless of income, will continue to receive treatment."

Let's come at the issue from another direction -- which veterans won't receive treatment?

ANSWER: Current legislation mandates that hospital care be provided to all Category A veterans. Also, outpatient care is mandated for the following categories of veterans: (1) any veteran, for service-connected disabilities; (2) for any disability of a veteran with a combined service-connected disability rating of 50 percent or more; (3) for the injury suffered by a veteran as a result of VA hospitalization; (4) any veteran in a VA approved vocational rehabilitation program; and, (5) any veteran, in the following group, on a pre- or post-hospital care or ambulatory basis to obviate the need for hospitalization (until the patient's condition is stabilized or the patient is admitted -- (a) to any veteran rated 30 percent or 40 percent service-connected for treatment of their nonservice-connected conditions, or (b) to any veteran whose annual income does not exceed the maximum applicable rate of pension for a veteran in need of regular aid and attendance.

At the present time, the providing of inpatient and outpatient care is felt to be discretionary to Category B and Category C veterans.

SENATOR KERREY: What do you mean by the reference "most higher income veterans who apply" -- who is not in the "most" category?

ANSWER: Category A veterans are not included in the higher income categories.

SENATOR KERREY: Will there be consistent rules for Category C veterans? What will be available to them?

ANSWER: With the implementation of Public Law 99-272 there are consistent rules in effect regarding the treatment eligibility for Category C veterans.

SENATOR KERREY: What is the definition of "emergency care"?

ANSWER: Medical emergencies are classified as those patients who may not be eligible for VA medical care, but who will be admitted if referral to an available non-VA hospital would in the judgment of the examining physician, jeopardize their health or life.

SENATOR KERREY: How are farmers classified -- if a farmer has an income under $25,000 but his farm assets are over $40,000 what category is he in?

ANSWER: When a veteran completes an application for care, the necessary income and net worth data is collected. This information determines which eligibility category the veteran is placed in. When a veteran's income places the veteran in Category A or B and the income plus net worth is less than or equal to $40,000, the determination of the veteran's eligibility category will be based on the veteran's income alone. When a nonservice-connected veteran's income alone places the veteran in Category A or B, but the income

plus net worth is greater than $40,000, further development will be undertaken and the veteran tentatively placed in Category C. A net worth determination is forwarded to the appropriate regional office for determination of whether or not medical care may be rendered without a copayment.

SENATOR KERREY: Has the VA looked into the availability of private insurance for categories or veterans who might not receive care?

ANSWER: The VA has not looked into the availability of private insurance for categories or veterans who might not receive care.

SENATOR KERREY: Under the current system, fees paid by Category C veterans and reimbursements from insurance companies go directly into the General Fund of the U. S. Treasury. If these funds went directly to the VA would the VA be able to care for more veterans.

What was the amount of these funds in FY 1987, 1988, 1989 estimate?

ANSWER: Directing these funds to the VA would not increase the total resources available for the provision of care to veterans. Such funds would be considered as reimbursements to the medical care appropriation, and in the budget process, these reimbursements would be an offset to the total funding requirements. The amount of funds collected from Third Party billings were as follows: 1987 - $32,938,560; 1988 - $118,751,021; 1989 (estimated) - $138,000,000.

SENATOR KERREY: You are estimating 23 million outpatient visits for fiscal 1990. How did you derive this estimate?

ANSWER: The FY 1990 estimate is based on the continuation of recent trends in outpatient workloads, with reductions applied so as to operate within the resource levels requested in the President's budget. The reductions from trend were made as part of the overall "redistribution of levels of care" described in the President's budget (Volume II, Medical Programs, page 6-15), and were applied in such a way as to assure access to quality health care for veterans whose care is required by law.

VA HOSPITALS

SENATOR KERREY: There are 172 VA hospitals. What is the range of utilization at these hospitals? How do you determine the extent of services to be provided, i.e., how does a hospital qualify to do heart transplants, dialysis, etc. What about routine services such as radiation treatments, opthalmology services universally available?

ANSWER: Utilization as measured by occupancy rates range from a high of 91.2 percent at VA Medical Center Northampton, Masssachusetts to a low of 42.9 percent at VA Medical Center Des Moines, Iowa. The VA systemwide average occupancy rate in fiscal year 1988 was 70.5 percent. During that period, the occupancy rate at more than 50 percent of the medical centers exceeded the national average.

The Veterans Health Services and Research Administration's health care planning process, Medical District Initiated Program Planning (MEDIPP), is utilized as a mechanism to assess and evaluate services to be provided. Needs assessment analysis and applicable criteria and standards are used to determined the appropriateness of a given service.

provided by VA Central Office. Each medical center determines the number of physicians adequate to meet their patient workload. Therefore, we do not have projected figures for FY 1989 or for future years. The physician complement of the Department was 7,024 full time and 5,635 part time at the end of 1988.

Our best recruitment source for physicians is the university medical schools. Approximately 25% of all our gains come from employees of a medical school. Another 22% of all physician gains come from those completing their residency. The third best source of recruitment is private practice representing 15% of all physician gains.

The base salary paid to VA physicians can vary from $48,592 to $75,500. However, the average base salary for VA physicians during FY 1988 was $67,862. Additionally VA physicians receive special pay based upon a physician's qualifications, tenure, and assignment. The amounts of special pay can vary from $7,001 to $22,500 per physician, and averaged $16,088 in FY 1988.

Each VA medical center has its own unique problems relative to physician recruitment. Some high cost-of-living urban areas such as Boston, Metropolitan and New York, San Francisco have problems with a salary that is too low to attract physicians. Other medical centers located in rural and small city settings have difficulty in attracting physicians because of the lack of interest physicians may have in relocating to these areas. Therefore, the physician recruitment and retention problems experienced by VA tend to be generalized throughout the nation.

VA experiences the greatest difficulties in recruiting for specialized surgeons (orthopedists, ophthalmologists, cardiac surgeons, etc.), general surgeons, radiologists, anesthesiologists, and psychiatrists. A full profile and detailed analysis of VA physician and dentist recruitment issues is contained in the Quadrennial Report to the President on the Adequacy of Special Pay for Physicians and Dentists. This report will be forwarded to OMB by the Department of Veterans Affairs during June 1989.

SENATOR KERREY: We have had some complaints from veterans in Nebraska about long waits to see a physician, limited time with a doctor, constantly seeing a different doctor.

Is this due to an unavailability of personnel or lack of sufficient funding for medical care or what?

ANSWER: The Veterans Affairs Medical Center (VAMC), Omaha, Nebraska, and the Veterans Affairs Medical Center (VAMC), Grand Island, Nebraska, the two VA facilities in the State of Nebraska, both experience difficulties in the recruitment of physicians specializing in orthopedics, opthalomology and psychiatry. As a result of limited physician resources in these specialities the VAMC's experience a demand for care that leads to lengthy waiting periods for outpatient appointments. Management at each facility attempts to reduce the backlog by contractual arrangements for speciality care or limiting access to the clinics. Greater financial incentives for physician specialists and resources for contractual care in these areas would improve availability of specialty care.

Comments regarding limited time with physicians usually arise out of the individual practice of a physician or the total time necessary to complete the outpatient treatment. It is well known that on the average an initial evaluation or follow-up treatment varies for both physician and speciality care. For example, a dermatolgic visit is usually shorter than a surgical evaluation or

Routine specialized services are generally available for certain eligible veterans at most VA medical centers on a district/regional basis or within the community on a sharing or contractual basis. Presently, there are 29 VA medical centers with radiation treatment services available in-house and two are currently under construction. Dependent upon the availability of resources, plans are to establish 12 additional treatment programs in the future. With respect to opthalmology, half-time coverage is available at 96 VA medical centers, i.e, staff is available 20 hours or more while less than half-time coverage is available at 49 VA medical centers. When opthamalogy services are not available at a VA medical center, veterans are referred to other nearby VA medical centers for treatment.

SENATOR KERREY: Are there currently any plans for shifting emphases in any of these institutions?

ANSWER: A cornerstone of the MEDIPP process is mission analysis whereby a balanced continuum of care is provided by examining the mission of each VA medical center with a view toward eliminating redundant and unnecessary duplication of services. A shift in emphasis of some services has been recommended as a means of achieving greater efficiency and improved quality of care.

SENATOR KERREY: There is obviously a need for more long-term care in the VA system in the upcoming years. What is your planning to address this and what do you see as the most likely means to meeting this need as the VA population ages?

ANSWER: As the veteran population increases in age, there will be continued growth in the need for both institutional and noninstitutional long term care services. In nursing home care, the Department plans to care for 16 percent of the estimated 290,411 veterans who will need nursing home care in the year 2000. The Department plans to deliver this care to 46,466 veterans on any given day through three VA-sponsored nursing home programs: 30 percent in VA Nursing Home Care Units, 40 percent in Community Nursing Homes, and 30 percent in State Nursing Homes. In addition to increases in nursing home care, alternatives to institutional long term care are continuing to be developed. Examples of alternatives to inpatient long term care which are being planned include hospital based home care, adult day health care and community residential care programs.

PHYSICIAN AVAILABILITY

SENATOR KERREY: Recruitment/retention of physicians often poses problems for the VA.

What is the status of your current recruitment efforts -- what is your projected level of physicians for FY 89 and FY 90 and how many do you expect to have to recruit in each year?

What are your best sources of recruitment -- new graduates or what?

What is your current salary range for physicians?

Are there some ares of the country where recruitment/retention is more difficult than others?

Are there some fields or specialities where recruitment is particularly difficult?

ANSWER: Physician recruitment is an individual responsibility and task of each VA medical center with supplemental assistance

follow-up. Data from the two Nebraska facilities reflect this variance. The perception may also result from the manner in which ambulatory care is provided at the facilities with the use of physician assistants, nurses, and dietitians supporting the care delivered to the patients by staff physicians.

Due to the turnover of medical residents at the affiliated Omaha VAMC, it is possible for a veteran being followed for a stabilized chronic condition to see a different physician on successive visits. Resident turnover is every ten months at the facility. In addition, a patient may present a medical problem that results in the referral to a different physician or speciality for continued care.

SENATOR KERREY: The House Appropriations Committee apparently see 194,500 as the appropriate level of medical personnel. Do you agree with this assessment and, if not, where specifically do you think the House Committee overstates the need?

ANSWER: The House Appropriations Committee identifies 194,720 FTEE required to adequately care for those eligible veterans using the VA. This is a program-wide FTEE floor and is not specifically related to any particular programs.

NURSING SHORTAGE

SENATOR KERREY: What is your current nursing shortage and how do you plan to deal with it?

You have proposed using some contract employees in nursing services. How do the costs of these employees compare to direct hire ones?

Are there advantages to direct hire?

Do you have any plans other than using contract services for dealing with the nursing shortage?

ANSWER: The VA's preliminary 1988 Survey of Health Occupational Staff Report reflects the following for registered nurses:

- Turnover rates increased in most all parts of the country. The highest FY 88 turnover rate was reported for Northern California facilities.
- Net vacancy rates increased in Florida, Texas, Chicago and Northern California. The highest net vacancy rate was reported for the Washington/Baltimore area facilities.
- Some facilities are experiencing little or no recruitment problems even though the turnover rate may be high. A few facilities are located near metropolitan areas where other VA facilities are experiencing severe recruitment difficulties, i.e., Boston area, New York City extended. Some facilities, Florida and Texas, were temporarily staffed over their locally authorized ceiling because candidates were available due to recent graduation and projected losses of RN staff.

Data indicate that in FY 88, it costs the Department an average of $46,186 per contract nurse. This can be compared to the FY 88 average salary cost of $31,687 per nurse, not including employee benefit and retirement costs.

Some advantages to direct hire are: loyalty to the Department vs. loyalty to the employment agency, and long term employment possibilities.

The following actions have been taken to improve our recruitment and retention of nurses:

- The third annual Survey of Health Occupational Staff is underway. The data, which should be available in late May 1989, will be used to assist in the evaluation of recruitment and retention trends throughout the Department. This data will assist in the development of the expanded data base to assist in the analysis of staffing and potential shortages.
- We are in the process of implementing an image enhancement program to improve our perception as a preferred health care employer. This campaign will initially focus on efforts to improve the recruitment and retention of nurses, pharmacists, occupational and physical therapists, and other scarce occupations.
- A VA Task Force recently convened February 1989 to examine the current Title 38 pay system for nurses and to develop strategies for improvements in both the administrative and legislative arenas.
- In March 1987, the Chief Medical Director charged a Task Force to study problems of recruitment and retention of nonphysician health care workers to make recommendations for their long term solution. The Task Force agreed that, in most geographic areas, the VAMCs do not provide keen competition for quality health care personnel when compared to the private and university affiliated hospitals, falling short in at least one of the following categories: base salaries, benefit packages, workload or staff/patient ratio, effective recruitment and publicity efforts, and amenities of the workplace. An Action Plan has been developed and approved to implement the recommendations of the Task Force.
- A new DM&S program office, called the Office of Health Care Staff Development and Retention, has been established and is responsible for the execution of the Action Plan developed to implement the approved recommendations of the Task Force. In addition, this office will give national focus to recruitment and retention efforts and concerns and serve as an information clearinghouse.
- Also, we are in the process of implementing the following established under Public Law 100-322, "Veterans' Benefits and Services Act of 1988":
  - Mandatory Saturday Premium Pay for registered nurses;
  - Tuition reimbursement for those employees pursuing nursing degrees;
  - Study of various alternative pay, personnel management, and benefit practices in the interest of improving its competitive recruitment and retention stance;
  - Child care center operation at VA facilities.
- A variety of regional and local initiatives are being monitored throughout the system. These efforts will be formalized into a clearinghouse function that will serve to ensure the broadest dissemination.

GENERAL OPERATING EXPENSES

SENATOR KERREY: (1) What resources would you need to process all -- or 99% recognizing there are some especially complicated ones -- claims within 6 months? Within 3 months?

ANSWER: To meet our established timeliness goal levels, which for some end products are at 3 months and others at 6 months, VBA would need 222 additional employees.

SENATOR KERREY: (2) Do you have a goal or are you making an effort to process claims within a specified period of time? What do you consider reasonable?

ANSWER: We do have standards and goals for claims processing timeliness. We have a specific standard for each category of claim. For example, 90% of original disability claims are to be completed within 180 days. There are 16 categories and we expect our offices to meet or exceed a minimally acceptable level in each category. If an office falls below a certain level of timeliness in any of the 16 categories that office is required to do an analysis of its operations and to report to Central Office.

SENATOR KERREY: (3) Some claims in Nebraska are being sent to offices outside the state to speed processing. Is this a normal procedure within the Department or is the situation unique to Nebraska?

ANSWER: Regional offices are generally responsible for claims within their jurisdiction. However, in the event that an office is temporarily backlogged other offices may be asked to assist. This is routinely done when necessary.

QUESTIONS SUBMITTED BY SENATOR D'AMATO

VETERANS MEDICAL CARE

SENATOR D'AMATO: One of the major challenges facing the Department of Veterans Affairs is meeting the growing demand for veterans medical care at a time of limited resources. The veterans population most likely to require care -- those over age 65 -- will number more than 7.2 million in 1990. Yet is is conservatively estimated that VA medical programs are already underfunded by at least $300 million, and will be underfunded by $500 million in FY 1990 (assuming the President's request is enacted).

How are you monitoring the effect this situation is having on the care provided at VA medical centers?

ANSWER: A number of steps have been taken in policy guidance and operational requirements that provide safeguards and controls on the provision of care at DVA health care facilities:

- o VHS&RA has established bi-weekly reporting requirements which call for each health care facility to provide advance notification of all actions affecting the delivery of services. In addition, advance approval must be secured for any workload reductions.
- o VHS&RA has established and utilizes a spectrum of quality of care monitors, consistent with statutory requirements, to ensure that quality of care is being maintained in its health care facilities. The primary determination of maintaining quality is, of course, at the local facility level.
- o VHS&RA has implemented a phased plan to achieve geographic equity of access to care. Beginning in FY 1989, the management of discretionary workload is required across all DM&S regions. This is being monitored by both Regional Directors and by VHS&RA-CO staff.

SENATOR D'AMATO: The current and projected funding shortfalls have generated great concern among veterans in New York. One facility -- the Northport Veterans Medical Center on Long Island -- recently announced the closing of two long-term care wards, leading many veterans to fear that they would be discharged inappropriately and without warning.

What safeguards does the VA have to ensure that veterans' rights are protected when VA medical centers are forced to cut back?

ANSWER: VHS&RA has long had a policy regarding implemented workload reductions of notifying each and every veteran who may be affected. Accordingly, after approval by VHS&RA Central Office of a VAMC workload reduction, the facility must provide health care alternatives information and referral to each veteran who would be affected by the reduction. In addition, every facility has continued to provide emergency and humanitarian care.

SENATOR D'AMATO: Mr. Derwinski, I understand that you have asked OMB for an amendment to the budget, adding an additional $512 million and 5,093 full time equivalent employees to the VA medical care appropriations for fiscal year 1990.

Have you received any response from OMB to date?

How will health care for veterans be affected if you don't get your request?

ANSWER: No, we have not received a response from OMB to date.

If the 1990 appropriation is approved at the level requested in the Reagan budget, the 1990 workload as submitted to Congress reflects the level of health care that can be provided.

SENATOR D'AMATO: The growing demand for VA health care will only increase in the future. The number of veterans aged 65 and older is expected to reach 9 million by the year 2000. What steps are you currently taking to deal with the projected long-term care needs of our aging veterans?

ANSWER: VA's plans to meet the long-term care needs of aging veterans involve both institutional and noninstitutional programs.

In nursing home care, the Department plans to care for 16 percent of the estimated 290,411 veterans who will need nursing home care in the year 2000. The Department plans to deliver this care to 46,466 veterans on any given day (census or ADC) through the three VA-sponsored nursing home programs: VA Nursing Home Care Units (VANHCU); Community Nursing Homes (CNH); and State Nursing Homes. It is the Department's plan to provide care to 30 percent of the veterans in VANHCUs (13,940 ADC); 40 percent of the veterans will be treated in the CNH Program (18,586 ADC); and 30 percent of the veterans needing nursing home care will be treated in the State Home Program (13,940 ADC).

In the Domiciliary Care Program, the Department has recently instituted a new needs assessment model to measure the need for this level of care. The results of the first application of the model are expected this summer. The Department will be in a better position to project the need for domiciliary care following the analysis of the model's application.

In noninstitutional care, the Department has supported those programs that emphasize the medical and health care needs of patients. Since 1985, the Department has expanded Hospital Based Home Care from 50 medical centers to 73 medical centers. In that same time period, the Agency has established 15 VA-operated Adult Day Health Care Programs and has granted contracting authority to 22 VAMCs for these services, which have resulted in 68 contracts. The keys to the existence and expansion of these programs is their potential for substitution for institutional care; their ability to assist the host medical center in discharge planning; and their ability to provide quality services. The Department will continue to search for and test new modalities of care which meet these critieria, although there does not appear to be any new approaches on the horizon at this time.

AIDS/IV-DRUGS

SENATOR D'AMATO: Do you have a current estimate of the number of veterans who have AIDS?

Among those who do have AIDS, do you know the percentage of those who contracted the disease through IV-drug use?

ANSWER: At the end of March 1989, there were 6,188 veterans who had been reported as having been cared for with AIDS in the VA. Among this number approximately 27% have contracted the disease through IV drug use and an additional 7% have contracted the disease through a combined risk of IV drug abuse and homosexual or bisexual behavior.

SENATOR D'AMATO: What is the VA doing to address the use of IV-drugs among veterans?

ANSWER: The VA has addressed the issue of IV drug abuse among veterans from both a treatment and a prevention perspective. Within the VA's drug treatment outpatient programs, a total of 35 methadone maintenance components are operated and saw approximately 3,300 patients in FY 1988. Extensive prevention and education activities are being carried out. Our information indicates that all of our drug treatment programs utilize an education and prevention component designed to address the issue of IV drug abuse with particular emphasis on its relationship to HIV infection.

GERIATRIC RESEARCH CENTERS

SENATOR D'AMATO: The "Independent Veterans Budget", sponsored by the major Veterans Service Organizations, advocates expanding the number of Geriatric Research, Education and Clincial Centers from 10 to 15 in the coming fiscal year. Given the projected increase in the number of elderly veterans coming into the VA system (up to 40% of all VA patients will be over 65 in 1990), do you support this proposal?

The independent budget also recommends having a total of 25 Geriatric Centers -- the maximum number currently authorized -- by 1995. Do you believe this is a realistic proposal?

ANSWER: The Department has recently increased the number of GRECCs from 10 to 12 with the designation of Ann Arbor and San Antonio VA medical centers as new GRECC sites. Funding of the two new GRECCs is planned for FY 90. We do not support expansion of the GRECCs from 12 to 15 in the coming fiscal year primarily because it takes approximately two years to complete the process of selecting new GRECC sites. Effective this fiscal year, the process to determine which VA medical centers will host new GRECCs has been integrated with MEDIPP (Medical District Initiated Planning Process). Medical centers which meet basic eligibility criteria, specified in P.L. 96-330, may submit a synopsis of their proposed program during the MEDIPP planning cycle. If funds to support a GRECC are available, all facilities with MEDIPP approval would be eligible to submit a comprehensive program proposal for competitive review by VA and non-VA experts in the field of geriatrics and geronotology. This competitive review process is utilized to assure establishment of high quality GRECCs.

QUESTION SUBMITTED BY SENATOR GRASSLEY

VETERANS MEDICAL CARE

SENATOR GRASSLEY: We are all aware that our veterans medical centers have been sending notices to Category C veterans and to some Category B veterans telling them, in many cases, that they will not continue to be served at the VA. Some veterans who had come to depend exclusively on the Veterans Administration for their health care have experienced problems in getting health insurance or finding other ways to provide the same care.

Will the supplemental appropriation, assuming the Congress supports the President's request, make it possible to resume service for these veterans for the remainder of the fiscal year?

What about the medical care request for the next fiscal year? Will VA continue to limit service to these Category C and Category B veterans?

ANSWER: With a supplemental increase of $303,000,000, the agency could initiate changes that would restore funding for workload support. This would allow the agency to work toward the FY 1988 level of employment and activity.

The 1990 President's budget would necessitate additional workload reductions in order to manage the system within the level of resources the budget requests. Therefore, no improvement in service could be expected for Category C and Category B veterans.

QUESTIONS SUBMITTED BY SENATOR BYRD

MARTINSBURG MEDICAL CENTER AND VA EXTENDED CARE FACILITIES

SENATOR BYRD: The Senate Report accompanying the Fiscal Year 1989 HUD-Independent Agencies Appropriations bill (Senate Report 100-401, June 24, 1988) included the following language, incorporated at my request:

> The committee is concerned about the Laundry Replacement Project for the Martinsburg Medical Center and the construction of extended care facilities at several sites in West Virginia. These projects have been included in the VA's 5-year plan and/or discussed in hearings before the committee. The committee expects the VA to accelerate these projects and incorporate them into the earliest possible President's budget request.

In addition, I have been in correspondence over the past four years with the Administrators of the Veterans Administration in support of these West Virginia projects.

Would you please review for the record, the status of each of these West Virginia construction projects, indicating the anticipated significant milestone events and schedules for completion?

ANSWER: At one time, a major construction project was planned to construct a new laundry at Martinsburg which would serve not only that facility, but also the VAMC Washington, D.C. When a decision was made to serve only the VAMC Martinsburg, the project was reduced in scope and can now be accomplished as a minor construction project.

The project is presently undergoing an economic cost analysis in accordance with the A-76 process to insure that VA construction/operation is the most cost effective means of providing laundry service to the facility. If the study supports VA construction, it is planned to consider the project for funding in fiscal year 1991.

In the area of extended care facilities, a project is being considered for fiscal year 1991 to renovate space at the Clarksburg Medical Center to accommodate an increase of 30 nursing home care beds. Various projects to upgrade space for the domiciliary program at the Martinsburg Medical Center are planned within the next five years.

HUNTINGTON VA MEDICAL CENTER

SENATOR BYRD: What is the latest status of the $50.8 million Huntington VA Medical Center clinical addition, for which I broke ground on October 26, 1988.

ANSWER: The Notice to Proceed was issued December 5, 1988. This project is currently under construction and is four percent complete.

SENATOR BYRD: The Fiscal Year 1988 HUD Appropriations bill included, at my request, $47.4 million for the project. In

addition, I helped secure a reprogramming request in the amount of $3.4 million on October 21, 1988. Please update the status of the project, including the significant milestone events and schedule for completion of the project.

ANSWER: Presently the parking structure is under construction with an anticipated completion of December, 1989. The remainder of the project is scheduled for completion in the summer of 1992.

OUT-OF-STATE TREATMENT OF CLARKSBURG, WEST VIRGINIA MEDICAL CENTER PATIENTS

SENATOR BYRD: I am deeply concerned that many of our north central West Virginia veterans who are not able to be treated at the Louis A. Johnson VA Medical Center in Clarksburg are being referred out-of-state for care--to Pittsburgh and other faraway VA facilities. This causes three basis problems: continuity of care; inconvenience for them as well as family and friends; and excessive delays in transferring them for care.

In 1988 alone, at least 2,039 West Virginia veterans bypassed Ruby Memorial Hospital, West Virginia University's state-of-the-art teaching hospital in nearby Morgantown, on their way to Pittsburgh for outpatient clinics. Also in 1988, another 308 West Virginia veterans were hospitalized in other out-of-state VA medical facilities for services not offered at the Clarksburg VA Medical Center. Medical records indicate that waiting times for appointments and treatment at Pittsburgh and other VA Centers are long. For example, I am advised that in many instances hospitalization was requested for a potentially acute problem, such as persistent chest pain, but that the average waiting time for admission was 13 days.

The West Virginia School of Medicine already has a Dean's Committee relationship with the Louis A. Johnson VA Medical Center. West Virginia University School of Medicine and Ruby Memorial Hospital, which is affiliated with the School of Medicine, are willing and capable of providing state-of-the-art and timely tertiary care services for those veterans who must go out of state for their care. Through the Dean's Committee relationship, several WVU faculty have part-time VA appointments. These individuals have part-time patient care and teaching responsibilities at both WVU Hospital (Ruby Memorial) and the Clarksburg VA Medical Center.

I would appreciate your reviewing this distressing situation and preparing for the record a plan of action to address it as soon as possible.

ANSWER: VA operates medical centers whose levels of service are classified as Primary, Secondary or Tertiary and organized administratively into Medical Districts. Each Medical District has at least one Tertiary medical center into which the other Primary and Secondary medical facilities refer patients whose treatment demands cannot be met locally at their facilities. If the local facility has any sharing agreements with another institution, the patient may be referred to that facility, utilizing services as provided in the agreements. In an emergency situation, or situation in which required treatment for a service connected condition does not exist or is not available, the patient may be sent or transferred to any other medical facility on a fee-for-service basis, requiring VA payment by the referring medical center.

VAMC Clarksburg, West Virginia is a Secondary level facility in Medical District 5, whose patients are referred to VAMC Pittsburgh (UD), Pennsylvania for higher level of care. Other VAMC's located in Erie, Altoona, Butler and Pittsburgh also refer patients to the tertiary facility. VAMC Clarksburg does send patients to the Ruby Memorial Hospital under several sharing agreements with West Virginia University School of Medicine. They also send patients to Ruby occasionally, utilizing contract hospitalization provisions. However, many patients are appropriately referred to the tertiary medical center in Pittsburgh.

CLARKSBURG VA MEDICAL CENTER

SENATOR BYRD: What is the latest status of the $25.9 million clinical addition project at the Clarksburg VA Medical Center, for which I broke ground on December 16, 1986?

The Fiscal Year 1985 HUD Appropriations bill included, at my request, the full amount budgeted ($21.4 million) for the project. In addition, I helped secure a reprogramming request in the amount of $4.5 million on September 29, 1986, which enabled a construction contract award to be made on September 30, 1986. Please update the status of the project, including anticipated milestone events and schedule for completion.

ANSWER: On March 24, 1989, the Office of Facilities conducted the final inspection of the new clinical addition. The new facility was completed and transfered to the Medical Center on that date. This was two months ahead of schedule.

BECKLEY VA MEDICAL CENTER

SENATOR BYRD: What is the latest status of the $15.7 million clinical addition project at the Beckley, West Virginia VA Medical Center? The FY 1989 budget included, at my request and at the urging of the Committee as expressed in language incorporated at my request in the committee reports for the previous two years, an amount of $15.7 million for this priority construction project. An architectural/engineering contract was awarded on September 23, 1988. Please update the status of the project including anticipated significant milestone events leading to the completion of this project. The response should include, but not be limited to, anticipated dates for the contract award, groundbreaking, construction completion dates, dedication, and occupancy.

ANSWER: Working drawings are being developed and are 60% complete.

Significant Milestones:

Complete Working Drawings	07/89
Construction Contract Award	10/89
Groundbreaking	Being Scheduled
Construction Completion	10/91
Dedication	Not Scheduled
Occupancy	Not Scheduled

WEST VIRGINIA NATIONAL CEMETERY

SENATOR BYRD: Please update for the record the status of the new West Virginia National Cemetery, for which I secured an earmarking of $1.75 million in appropriations in FY 1984 and 1985.

The cemetery site, which includes 58 acres, was consecrated on October 19, 1985, during a ceremony at which I had the honor to serve as the principal speaker. On September 27, 1987, I dedicated the first phase of the cemetery which included 3.5 acres for a burial area, site utilities, and site work, for the upper committal service shelter. Phase two construction includes an administrative/maintenance building, two committal service shelters, site work, utilities, and landscaping.

The Phase II project was scheduled for completion in December 1989. Recently, it was projected that construction would be completed by Spring 1990. It now appears that the start of construction may be further delayed.

I have been disappointed about these delays and am concerned about the possibility of further delays. It is my expectation that this project will receive the appropriate attention so as to preclude any further delays. Please provide for the record an updated schedule including significant milestone events leading to the timely completion of this project.

ANSWER: This minor cemetery project was designated an SBA-8(a) set aside project and was delegated to VAMC Clarksburg, WV, for the negotiation of a contract and subsequent administration thereof.

VAMC Clarksburg is awaiting the final requisite audit by the Defense Contract Audit Agency. Negotiations cannot be completed prior to receipt of the audit.

The primary contractor's proposal exceeds the established construction budget for this project. The VA has requested the SBA (the primary contractor's representative) to submit its "Best and Final" proposal by May 1989. We expect resolution of this problem to enable us to achieve a construction contract award in June 1989.

SENATOR BYRD: Also, please detail for the record the efforts of the VA and service organizations to publicize the availability of this new cemetery to our West Virginia veterans.

ANSWER: The recently appointed cemetery director has been quite active in outreach activities. In recent weeks he has made a slide presentation at three civic and service organization meetings. As a result of making funeral directors aware of his availability to speak to groups, he has received invitations to address four more groups in the future, in Parkersburg, Bridgeport, Huntington and Wheeling, West Virginia. He has been meeting personally with funeral directors on a weekly basis. During National Consumers Week (April 23-29) the cemetery director gave his slide presentation at a display in the Clarksburg VA Medical Center on an hourly basis for half-days. Recently TV stations and newspapers publicized the unveiling of a memorial marker at West Virginia National Cemetery. A newspaper has also covered the director's involvement in helping with renovation of several Civil War veterans' plots in private cemeteries, an activity he has performed on his own time.

Veteran service organizations communicate directly with their membership. Although their specific publicity efforts are not known, Veteran Service Officers have supported the West Virginia National Cemetery by maintaining its Avenue of Flags program as well as planning and publicizing Memorial Day ceremonies.

PSYCHIATRIC SERVICES AT THE HUNTINGTON, WEST VIRGINIA, VA MEDICAL CENTER

SENATOR BYRD: Last year, at my request, the Committee included the following language in the report accompanying the FY 1989 HUD-Independent Agencies Appropriations bill, expressing concern about the lack of psychiatric services at the Huntington, West Virginia VA Medical Center:

> The Committee remains concerned, as expressed last year, about the lack of inpatient psychiatric services at the Huntington, WV VA Medical Center. There is an increasing need for such services by World War II, Korean conflict, and Vietnam-era veterans in the primary service areas of the hospital. It was anticipated that beds for psychiatric care would not be available until 1992, when the new $47,500,000 clinical addition project would provide for renovation of vacated space to create a 30-bed psychiatric ward at the medical center. Consequently, the Committee urged that the Veterans Administration proceed toward working with the Department of Psychiatry at the Marshall University School of Medicine to activate a psychiatric inpatient bed service as soon as possible to serve psychiatric patients. In responding to these concerns, the VA has provided testimony indicated that the planned phasing of the construction of the new $47,500,000 clinical addition project at Huntington has been modified to move this renovation forward and it is nov anticipated that the psychiatric ward could be opened in 1990. The Committee is encouraged by this response to its concerns and urge the VA to redouble its efforts to activate the psychiatric ward soon as possible.

Please provide for the record an updated status report including significant milestone events leading to the opening of the psychiatric ward in 1990.

ANSWER: Construction for the 30 Bed Psychiatric Ward is included in the clinical addition project. The clinical addition project is currently scheduled for completion in the summer of 1992. The psychiatric ward is planned to be finished prior to the completion of the project; however, the date has not been projected yet since the final schedule has not been determined.

BECKLEY VA LAND ACQUISITION

SENATOR BYRD: On November 22, 1988, I wrote the Administrator of the Veterans Administration regarding the need for a 120-bed nursing home care unit at the Beckley, West Virginia VA

Medical Center and the purchase of 13.5 acres of undeveloped land at an estimated cost of $100,000, adjacent to the hospital. I am aware of correspondence from the Acting Administrator, Mr. Thomas Harvey. dated February 27, 1989, stating that there is an OMB requirement which requires that land be acquired only in conjunction with a project under development and that as of now there is no construction project planned. However, I believe that the application of such a policy in this instance is shortsighted because this parcel of land is the only undeveloped land adjacent to the hospital. If its purchase is lost to the Government, it will preclude forever the expansion of Beckley VA Medical Center. Therefore, I strongly urge that the Department of Veterans Affairs carefully examine this need and reconsider its current position.

ANSWER: The parcel of undeveloped land adjacent to the Beckley VAMC has been reviewed over a period of years for its possible use for parking by the facility. The Clinical Addition project currently under construction, however, has included adequate parking in the scope of the project. The parcel of land under consideration, while adjacent to the Medical Center, lies at the bottom of a 50 foot bluff from the Medical Center and is, therefore, not functionally appropriate as a possible location for other clinical or support services that have to be functionally integrated with or interact with the existing facility's operations.

CONTINUING STAFFING DEFICIENCIES AT THE HUNTINGTON VA MEDICAL CENTER

SENATOR BYRD: Last year at my request, language was included in the report accompanying the FY 1989 HUD-Independent Agencies Appropriations bill as follows:

> For the last several years, the Committee has been expressing its concern about the continuing staffing deficiencies at the Huntington VA Medical Center. In responding to these concerns, the VA has provided testimony indicating that 20.5 full-time equivalent employees were added in fiscal year 1986; and subsequently the VA medical center has received its proportionate share of funds received by the VA for inflationary cost increases. In addition, the medical center management has been evaluating the internal staffing alignment, and has recently approved the recruitment of nine additional employees in the nursing service to enhance the direct patient care service. The Committee is somewhat encouraged by these developments, but believes more needs to be done. Consequently, the Committee urges the VA to reexamine its resources and the needs at the Huntington VA Medical Center, with a view to providing the enhanced level of staffing appropriate to a medical school affiliated teaching hospital.

Please update for the record the efforts being made to remedy the staffing deficiencies at the Huntington VA Medical Center so that the staffing levels may more nearly approximate the levels of staffing appropriate to a medical school affiliated teaching hospital.

ANSWER: Since Fiscal Year 1986, the Resource Allocation method of budgeting indicates that staffing at Huntington is consistent with their patient care workload. Each year since 1986 they have received their proportionate share of funds received by the Veterans

Health Services and Research Administration (VHS&RA) for inflationary cost increases. The medical center did receive a supplemental 20.5 FTEE in FY 1986 that was added to the center's base staffing component. This brought the total authorized staffing to a level which was more appropriate to a medical school affiliated teaching hospital and consistent with their existing workload.

Even though a staffing increase occurred in FY 1986, the medical center has incurred a reduction in full-time equivalent employees as a result of the Resource Allocation Model (RAM) adjustments, estimated savings for projected increases in productivity, and data validation adjustments consistent with applications throughout the Department of Veterans Affairs. The Huntington VA Medical Center, like all health care facilities nationwide, is experiencing the effects of the nursing shortage. They have had special salary rates for nurses for the past three years, which has helped recruitment. The internal staffing alignment in support of additional nursing positions has been a positive step to enhance the patient care service.

With the current construction of the Robert C. Byrd Clinical Addition moving into full swing, the FY 1991 project activation support will be given full consideration consistent with the availability of funds as provided through the appropriation process for that purpose.

SUBCOMMITTEE RECESS

Senator MIKULSKI. Mr. Derwinski, we really look forward to working with you. We have got a big job; but you know, when our veterans undertook their military service, they had an even bigger job. So I am going to just urge you, in the most firm and clear way, to take a look at your shop, analyze it, and get out there and serve the veteran.

If you need people, if you need money, talk with us about it. It is like the gang that is answering the phone at the VA: I cannot guarantee an outcome, but I will tell you, if we work together, we can sure guarantee an effort.

Internally to your shop, externally to the Congress, we really look forward to your vigorous advocacy and that of your people.

The subcommittee will now stand in recess until May 2, at 10, when we will take testimony from NASA. The hearing will take place in Dirksen 138.

[Whereupon, at 12 noon Tuesday, April 18, the subcommittee was recessed to reconvene subject to the call of the Chair.]

VA, HUD, AND INDEPENDENT AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1990

MONDAY, MAY 1, 1989

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 1:40 p.m. in room SD-138, Dirksen Senate Office Building, Hon. Barbara A. Mikulski (chairman) presiding.

Present: Senators Mikulski, Stevens, and Grassley.

FEDERAL EMERGENCY MANAGEMENT AGENCY

STATEMENT OF JULIUS W. BECTON, JR., DIRECTOR

ACCOMPANIED BY:

DAVE MC LOUGHLIN, DIRECTOR, OFFICE OF TRAINING
HAROLD T. DURYEE, ADMINISTRATOR, FEDERAL INSURANCE ADMINISTRATION
WILLIAM C. TIDBALL, CHIEF OF STAFF
GRANT C. PETERSON, ASSOCIATE DIRECTOR FOR STATE AND LOCAL PROGRAMS AND SUPPORT
GEORGE WOLOSHYN, ASSOCIATE DIRECTOR FOR NATIONAL PREPAREDNESS
EDWARD WALL, DEPUTY FIRE ADMINISTRATOR
R. GREGG CHAPPELL, ASSISTANT ASSOCIATE DIRECTOR, DISASTER ASSISTANCE PROGRAMS
GEORGE W. WATSON, ACTING GENERAL COUNSEL
BARBARA MOODY, ACTING BUDGET OFFICER
RICHARD S. SHIVAR, ACTING COMPTROLLER
JACK THIEDE, INSPECTOR GENERAL

OPENING REMARKS OF SENATOR MIKULSKI

Senator MIKULSKI. The subcommittee will come to order. Today the subcommittee will conduct its hearings on the budget for the Federal Emergency Management Agency for fiscal year 1990. We welcome General Becton to the subcommittee and we note that FEMA's request is for $816.3 million for fiscal year 1990, an increase of 29 percent over last year, but there are some disturbing trends despite this increase.

While disaster relief and homeless assistance increase, FEMA's Emergency Management Program is being cut by almost 5 percent—this reduction in the face of the public's expectation that FEMA is the coordinator of our Nation's emergency management response and readiness.

When we take a look at the recent *Valdez* oilspill, we are concerned. We are concerned that there were limited resources, inadequate emergency readiness, and thus one of the greatest environmental disasters of our time. So it seems inconsistent for the Agency, whose principal responsibility is emergency management, readiness, and preparedness to begin singling out that portion of its budget for reduction.

I am pleased that Senator Ted Stevens of Alaska, a distinguished member of our full committee, will join us to discuss the *Valdez* incident with FEMA in more detail. In addition to emergency readiness, I am anxious to take a look at FEMA's homeless programs which the administration is proposing to transfer to HUD and to find out if FEMA thinks it is a particularly good idea and, more importantly, how it will affect the ability of nonprofit groups, the heart and soul of helping the homeless, to be able to get assistance.

Finally, I will be looking for some answers on staffing levels at the National Emergency Training Center facility in Emmitsburg.

Thirteen months after the subcommittee and FEMA reached a good faith agreement on staffing levels at Emmitsburg, the Agency has yet to live up to its end of the bargain and reach the 140 FTE level agreed to. I will be looking forward to a firm commitment on this issue in the hopes of resolving it without taking other steps.

General Becton, this is likely to be your last appearance before this committee as FEMA Director. We thank you for dedication to the Agency and helping reverse some of the very severe management problems there were prior to your arrival. So we look forward to your testimony and we look forward to working with you on the fiscal 1990 budget.

I would like to recognize Senator Stevens if he has an opening statement. If not, we'll take testimony and move on to questions.

Senator STEVENS. I would just as soon wait for the questions, Madam Chair.

Senator MIKULSKI. Thank you very much.

[The statement follows:]

STATEMENT OF SENATOR J. ROBERT KERREY

I am pleased to have the opportunity to review the request of the Federal Emergency Management Agency.

I am certain that it is by now a cliche to comment on the myriad of disparate programs under the jurisdiction of this agency. The breadth and diversity may be close to unique.

As a former Governor, I am, perhaps, most familiar with the civil defense program. I was, in fact, just reminded that I had spoken on several occasions to the civil defense personnel in our State. They are a competent and dedicated group of individuals preparing, first, for an event we hope will never happen and, secondly, trying to insure that their preparations are indeed sufficient to handle the natural disasters which are too likely to occur. I believe this dual purpose approach is most important to an effective over-all program and I encourage FEMA to pursue that approach vigorously.

We have two nuclear power plants in Nebraska and the State has participated in the Radiological Emergency Preparedness or REP program since 1977. The planning and exercises undertaken under the program are important insurance in the event that there should be a problem and I hope you will give this program the support it deserves.

Obviously, we all hope to avoid disasters and hazards, but we do have the federal effort represented by FEMA and I look forward to working with you to devise and continue programs which will allow us to make the proper response to those unforeseen events which do arise.

SUMMARY STATEMENT

Senator MIKULSKI. General Becton, why don't you then just go ahead and proceed?

General BECTON. Thank you, Madam Chair and Senator Stevens. We are delighted to have the opportunity to present our case to you.

INTRODUCTION OF ASSOCIATES

Before starting, I would like to introduce the members of the FEMA family with me. Starting from my extreme right, Dr. Dave McLoughlin, the Director, Office of Training. Next to me is Mr. Harold Duryee, the Federal Insurance Administrator. To my immediate left, the Chief of Staff of FEMA, Bill Tidball. Next, Grant Peterson, the Associate Director of State and Local Programs and Support; George Woloshyn, Associate Director for National Preparedness; and Ed Wall, the Deputy Fire Administrator.

On the back row, Madam Chair, we have Mr. Gregg Chappell, the Chairman of the National Board of Emergency Food and Shelter Program; Mr. George Watson, the Acting General Counsel; directly behind me, Ms. Barbara Moody, the Acting Budget Officer. Next to her is Mr. Rick Shivar, the Acting Comptroller; and next to him is Jack Thiede, the Inspector General.

With your permission, Madam Chair, I will submit my more detailed statement for the record and make a few summary remarks.

Senator MIKULSKI. Without objection, so ordered.

General BECTON. There should be a folder in front of you with just a few pieces of paper in it which I will make reference to.

As you mentioned, this will be my last appearance as the Director of FEMA before this committee. I'm here clearly to urge the support of FEMA programs and to reassure you that we are spending the people's taxes in an effective and efficient manner on activities that are truly important to the well-being, safety, and security of our Nation.

In April of this year, FEMA celebrated its 10th anniversary as the focal point within the Federal Government for a wide range of emergency management in both peace and war. Our stated mission, which is in bold letters in the folder, says that under the direction of the President, the Federal Emergency Management Agency will plan for and coordinate the protection of the civilian population and its resources and in time of an emergency plan for continuity of constitutional government.

Our modus operandi, basically providing guidance and funding, is following four basic approaches: preparedness, mitigation, response, and recovery. We have about 130 to 140 programs and activities. Not unlike the British Empire, the Sun hardly ever sets on FEMA. We extend from as far east as Brussels where we have a NATO commitment, to as far west as Saipan where we have folks working disasters at this moment.

PROGRAM HIGHLIGHTS

My No. 1 priority in FEMA is and has been civil defense. That basically translates to protection of the population. We also empha-

size the dual use of civil defense. Funds may be used for other things as long as they do not detract from attack preparedness.

Very close to that in priority is continuity of government, and that includes national security and Federal preparedness. I am convinced that if we can convince a would-be aggressor that no matter what he does to us, our leadership will survive from the National Government down to local government, we in effect will add to the deterrence.

DISASTER ASSISTANCE

Our most visible and humane program is our Disaster Assistance Program, initiated by a Governor when an incident has exceeded his capacity to deal with it. Associated with that is another program that is not very visible, but yet very humane. You mentioned it in your opening comment, Madam Chair, and that is the Emergency Food and Shelter Program.

There is a Board of Directors that determines the allocation of funds. The Board is chaired by a FEMA employee, who is assisted on the Board by a United Way representative, American Red Cross, Salvation Army, and three church groups.

Potentially the most expensive program that FEMA has is the National Flood Insurance Program where we have more than 2 million policyholders and $173 billion of policy coverage. That program, during a normal flood year, is self-supporting.

RADIOLOGICAL EMERGENCY PREPAREDNESS

Our most contentious program is radiological emergency preparedness which is concerned with that area in a 10-mile emergency protective zone around a nuclear plant, where FEMA is an adviser to the Nuclear Regulatory Commission, to ensure public health and safety. We say "contentious" because, as you know, there are some areas that have not supported those plants.

Another program that does not have the problem of being contentious now, but will in the future, is the demilitarization of chemical munitions. As you are aware, Madam Chair, you have a plant in your State. There are seven other areas that have similar plants. We have about 5 years in which we will be working with the Department of Defense, more specifically the Department of the Army, in dealing with State and local governments to ensure that the public safety and health is protected.

FIRE LOSSES

The program with the most disappointing results in my judgment is our fire losses. We lose, on average, 6,000 Americans every year. For a major industrialized country, we have a horrible record in that respect. And who are the people who are killed or die in fires? The very young, the very old, the handicapped, and the minorities.

Our most challenging and yet rewarding program has to be our National Emergency Training Center where we train more than 7,000 students on campus, and we reach literally hundreds of thou-

sands of other people who will receive our training by way of off-campus training in our emergency educational network.

CIVIL EMERGENCY PREPAREDNESS

And last, the program that has the most promise in my judgment is our Civil Emergency Preparedness Program in which, as the senior U.S. representative to NATO, we work with our allies to ensure that they have emergency planning, as do we. As you know, at this moment they are meeting in Ottawa and will go down to Williamsburg on Wednesday for the first trip to North America by this group for their 40th anniversary.

I probably should stop here and respond to your questions. I want to thank you, Madam Chair, for this opportunity to bring our request to your committee. As in the past, I've asked my colleagues not to be reluctant to speak up when they have the requisite expertise in the area under discussion, and I have also asked them to please avoid using acronyms, gentlemen and ladies. We are now ready to answer your questions, ma'am.

[The statement follows:]

STATEMENT OF JULIUS W. BECTON, JR.

Madame Chair and Members of the Subcommittee:

We appear before you today to present testimony on the budget request of the Federal Emergency Management Agency (FEMA) for fiscal year 1990.

The total requested for all appropriations is $816,273,000. This total and the rest of this discussion exclude legislative proposals to be initiated by the Department of Housing and Urban Development and the Small Business Administration. When these proposals are enacted, the budget request before you would be amended to reduce the FEMA request to $752,023,000.

The outlay request is $814,620,000, and FEMA's full-time equivalent needs are estimated at 2,617. Compared to 1989, appropriations increase by $182,561,000, outlays increase by $75,854,000, and full-time equivalents increase by 81.

The 1990 budget request for FEMA's operating accounts is $409,834,000, a decrease of $9,878,000 from 1989. The decrease is largely attributable to reduced request levels in the Federal Preparedness and Training and Fire Programs activities, and to the transfer of the Inspector General request from FEMA's operating accounts to a separate appropriation. These decreases offset minor increases in resource requests for the Civil Defense and Radiological Emergency Preparedness activities. The specifics of these changes are detailed in the Budget Justification.

OVERVIEW

FEMA's 1990 request maintains most programs at or somewhat below the 1989 level. The major exceptions are the Disaster Relief Fund, where an increase of $170,000,000 is requested to replenish the Fund to the level necessary to cope with a normal disaster year, the Emergency Food and Shelter appropriation, where an increase of $20,000,000 is requested for the homeless, and the Civil Defense activity, where an increase of $6,309,000 is requested.

The 1990 request again proposes policy initiatives for increased State and local cost sharing for stipends and earthquake and hurricane mitigation grants, and elimination of those U. S. Fire Administration activities that can be handled below the Federal level. The National Flood Insurance Program maintains the current initiative to be self-supporting while funding all costs associated with the program. A modest increase is requested for the Radiological Emergency Preparedness activity, to support development of the capabilities required by Executive Order 12657, along with short-term borrowing authority from the Disaster Relief Fund for reimbursable activities performed under the Executive Order. The request also includes funds for several uncontrollable cost increases, including allowances for inflation in categories other than salaries, and funds for an anticipated increase in rental payments to the General Services Administration.

FEMA's 1990 request also supports legislative initiatives to be proposed by two other agencies: the Department of Housing and Urban Development, where a proposal to move the Emergency Food and Shelter program from FEMA to HUD would reduce the FEMA request by $134,250,000 if enacted; and the Small Business Administration, where a proposal to terminate the SBA Disaster Loan program would result in an increase of $50,000,000 to the Disaster Relief Fund request if enacted. The net effect of these two proposals would be a reduction of $84,250,000 to FEMA's 1990 request.

CIVIL DEFENSE

FEMA requests $151,535,000, an increase of $6,309,000 over 1989, for this activity in order to continue implementation of the requirements contained in National Security Decision Directive 259 "...to have a civil defense capability as an element of our overall national security posture." In 1990, the primary use of the funds requested will be 100%-Federal and 50% matching grants to the States to continue efforts initiated in 1989 for the development of a base survivable crisis management capability at the State and local levels in order to protect the population, business, and industry from the effects of national security emergencies.

In accordance with the requirements of the Federal Civil Defense Act of 1950, as amended, this base capability is based on the primacy of attack preparedness. However, attack preparedness planning is designed in such a manner that it provides for a solid emergency management foundation at the State and local levels to plan for ways to mitigate the effects of, respond to, and recover from natural and technological disasters of whatever magnitude. This "dual-use" benefit is a cornerstone of the Civil Defense program in the 1990 request.

EARTHQUAKE AND OTHER HAZARDS

The request for the Earthquake and Other Hazards activity is $9,127,000 and 61 workyears, a decrease of $504,000 from the 1989 current level.

The Earthquake and Other Hazards activity supports FEMA's statutory responsibilities as lead agency for the National Earthquake Hazards Reduction Program and encompasses programs which work with State and local governments, volunteer organizations, and the private sector to reduce the potential loss of life and property from earthquakes, hurricanes, hazardous materials, unsafe dams, and related hazards. This is accomplished through comprehensive programs of mitigation, preparedness and response planning, and public education. The potential economic and social impact of these hazards, as recently illustrated by the tragic Armenian earthquake, attests to the continuing need to prepare for and mitigate disasters arising from natural and manmade hazards.

In 1990, these programs will emphasize the development and implementation of mitigation techniques and strategies at the State and local level. The 1990 program features a 50 per cent Federal/50 per cent State cost share of financial assistance in the Earthquake program. This proposal is consistent with the Administration's emphasis on defecit reduction.

RADIOLOGICAL EMERGENCY PREPAREDNESS

The request for Radiological Emergency Preparedness is 94 workyears and $10,119,000, an increase of 10 workyears and $1,149,000 over 1989. This increase provides resources to implement Executive Order 12657 of November 18, 1988, which assigned to FEMA additional responsibilities in preparing for and responding to emergencies at commercial nuclear power plants when State and local jurisdictions decline or fail to participate. FEMA also proposes short-term borrowing authority of up to $10,000,000 from the Disaster Relief Fund for 1990 to fund initial response prior to reimbursement by the requesting utility, with the intent that these funds will be repaid promptly by the utilities to the Disaster Relief Fund.

In addition to the above reimbursement, the Administration intends to collect fees from the commercial nuclear facilities for benefits

received from FEMA which are associated with offsite emergency planning requirements. The fees to be collected would be reimbursed to the Treasury and therefore would not affect this appropriation request.

FEDERAL PREPAREDNESS

The request for Federal Preparedness is $164,197,000 and 977 workyears, a net decrease of $15,398,000 and an increase of 34 workyears over 1989. The major portion of the increase to workyears and Salaries and Expenses is in the Government Preparedness program. This increase is more than offset by a reduction in program funds in the same program.

This request provides for the continued operation of the Emergency Information and Coordination Center, and for Executive Branch mobilization preparedness functions including mobilization exercises, which represent the outreach phase of mobilization preparedness. Under this element, FEMA plans, coordinates, and conducts domestic emergency and national security exercises designed to improve capabilities, assess preparedness, provide education and training, enhance the definition of missions and roles, validate policies, and initiate deficiency corrections.

This year, FEMA has consolidated the program structure for Resources Preparedness, Mobilization Preparedness, and Federal Preparedness Policy and Planning into a new program structure consisting of Mobilization Preparedness and Federal Readiness and Coordination. This restructuring responds to a variety of mission and function changes related to the 1988 transfer of the National Defense Stockpile functions to the Department of Defense and the signing of Executive Order 12656 in November 1988. The new structure reduces the number of programs in this element from five to four, improves the alignment of resources with responsibilities, and requests no significant change in resources.

TRAINING AND FIRE PROGRAMS

The request for Training and Fire Programs is $18,681,000 and 118 workyears, a net decrease of $1,373,000 and an increase of 14 workyears. As discussed below, this reduction reflects a phasing-in of increased cost sharing by State and local governments and volunteer organizations for training their employees and members at the National Emergency Training Center. In addition, the request includes a reduction in funding for the Fire Prevention and Arson Control program where these activities can more appropriately be handled at the operating level, i.e., below the Federal level. The increase in workyears and the offset to the decrease in funds requested derive from the transfer into this activity all resources appropriated in 1989 for NETC Site Administration, and their consolidation into a new program within this activity.

United States Fire Administration

In the 1990 request, funds are provided for the following Federal activities: the residential sprinkler demonstration project; the undertaking of new fire service management initiatives; achieving a closer working relationship between the fire service and public management; continuation of public/private partnership efforts; studying the adequacy of fire apparatus operator training; additional research to develop superior protective clothing, tools and equipment to allow firefighters to operate more safely and efficiently in emergencies; identification of the special needs and precautions associated with AIDS; continuation and expansion

of the National Fire Incident Reporting System (NFIRS); and analysis of selected fire department operations. The 1990 request proposes a reduction in funding and workyears for the Fire Prevention and Arson Control program, assuming that responsibility for its programs, with the exception of sprinkler demonstration, could be handled below the Federal level.

Cost Sharing for Training

For 1990, consistent with the Administration's position over the past several years, FEMA again proposes that State and local governments and volunteer organizations begin to assume a greater responsibility in the emergency management partnership by paying a larger share of the cost of providing training at the National Emergency Training Center to their employees and members. A phase-in period, rather than an abrupt elimination of current levels of financial support to offset the expense of attendance is incorporated in the proposal. Under the 1990 request, State and local governments and volunteer organizations will pay a larger portion of the costs for their students to attend training at the Emmitsburg campus. Currently, a student's sponsoring organization pays for the student's meals, ground transportation at the point of departure, and, where necessary, the salary and benefit costs of replacement personnel. The Federal government currently pays all other costs of the on-campus resident program at Emmitsburg, including costs of student travel to NETC, lodging, faculty and staff, course materials, course development and delivery, site administration, etc. This proposal will require the student to pay part of the travel costs to the NETC. By phasing in cost sharing, the proposal provides adequate time for State and local governments and volunteer organizations to plan and budget for the expense of attendance for their students.

Consolidation of Site Administration Requests

The 1990 request proposes the consolidation of the four current NETC Site Administration program elements into one new budget program. The four current locations of resources for NETC site administration are the three existing programs of the Training and Fire Programs activity -- Emergency Management Institute, National Fire Academy, and U.S. Fire Administration -- and the Training and Education program of the Civil Defense activity. Transfer of this latter element from Civil Defense into Training and Fire Programs creates the increase to the 1990 request for Training and Fire. There is no increase to the total resources requested for NETC Site Administration. This consolidation will make it easier to identify and request all of the resources necessary to operate the Emmitsburg facility and support the educational programs of the National Fire Academy and the Emergency Management Institute. It will also permit the budget requests of the Academy and Institute to focus exclusively on the development and delivery of their academic programs.

MANAGEMENT AND ADMINISTRATION

The request for Management and Administration is $45,552,000 and 465 workyears, a net decrease of $150,000 and 26 workyears from the 1989 current estimate. Both the 1989 current estimate and the 1990 request reflect the transfer of resources for FEMA's Regional management and administrative functions from the State and Local Emergency Management program of the Civil Defense activity into the Agency's Management and Administration account. The 1990 request reflects the transfer out of resources for the Inspector General function, into an independent appropriation as required by the Inspector General Act of 1978. Excluding the above transfers, the net increase in this activity is for the following: several uncontrollable cost increases not related to personnel compensation, such as rental payments to the General Services

Administration; as well as 19 workyears and $680,000 to provide full funding for the intern program designed to provide a rational employee replacement system in FEMA.

INSPECTOR GENERAL

Passage of an amendment to the Inspector General Act of 1978 created a statutory Inspector General within FEMA, so for the first time we are requesting a separate appropriation for this function, in keeping with the requirements of that Act. For 1990, FEMA requests $2,439,000 and 45 workyears, an increase of $46,000 over the resources provided for this function in the 1989 Salaries and Expenses appropriation. This request level will provide the Inspector General with resources to perform audits in the area of accounting, administration, and selected program areas. A number of reactive criminal investigations will also be conducted.

NATIONAL FLOOD INSURANCE FUND

In 1990, FEMA will again operate a self-supporting National Flood Insurance Program while funding the Flood Plain Management Program and the administrative costs associated with the National Flood Insurance Fund. The effort to become self-supporting has saved the taxpayers approximately $1.3 billion since 1981.

The Housing and Community Development Act of 1987 (Public Law 100-242) authorized a ten per cent increase in premiums in both 1988 and 1989. FEMA implemented a ten per cent increase in 1988, but does not plan to increase premiums in 1989 or 1990, due to the small number of losses in the drought year of 1988. The current rate structure, however, does not provide for catastrophic losses or for the increased benefits available under Section 544 of Public Law 100-242 ("Upton-Jones" provisions). Should there be any significant increase in claims as a result of this provision, rate increases may be necessary to maintain the program's self-supporting status.

FEMA will continue to work with the private insurance industry, through the Write-Your-Own program, as the most effective means of promoting the sale of flood insurance policies, providing improved service to insurance agents and brokers, and improved claims service to policy holders should a catastrophic flooding event occur. At the end of fiscal year 1988, over 80 companies were actively writing in the program, representing almost 1,500,000 policies, or 72% of the more than 2,100,000 flood insurance policies.

NATIONAL INSURANCE DEVELOPMENT FUND

FEMA supports the termination of this program when its current authorization expires on September 30, 1989. Approximately $1,400,000 per month of taxpayer subsidy will be required to support the program's fewer than 29,000 policies through 1989. Should the program be extended, FEMA will continue its efforts to make the program more efficient by seeking rate increases to cover losses and expenses and requesting that Congress appropriate funds to repay program borrowings.

DISASTER RELIEF

The 1990 request of $270 million will replenish the fund to a level adequate to handle a normal year of obligations from the Disaster Relief Fund. The primary uses of these funds are grants to

individuals, families, and State and local governments. In 1990, FEMA anticipates that it will support recovery operations in 28 Presidentially-declared disasters.

In November 1988, the President signed the Disaster Relief and Emergency Assistance Amendments of 1988. Under these amendments, the Disaster Relief Act of 1974 was renamed the Robert T. Stafford Disaster Relief and Emergency Assistance Act. The amendments are projected to be cost neutral. FEMA will issue new regulations to be used by State and local governments as interim guidance within the 180-day deadline set by the Congress.

EMERGENCY FOOD AND SHELTER

FEMA is requesting $134,000,000, the maximum amount authorized, to continue support to emergency food and shelter programs for the homeless through a national board of major private charities. This request is an integral part of President Bush's pledge to combat homelessness by fully funding the McKinney Act programs. This request level reflects both the original 1990 request of $114,000,000, and the amendment submitted by President Bush, which adds $20,000,000 to the request. In 1990, these funds will supplement programs for the needy and homeless at more than 9,000 organizations in 2,300 jurisdictions.

The Administration is proposing legislation to be submitted to the Congress by the Department of Housing and Urban Development, to move this program intact from FEMA to HUD in 1990. I am proud of FEMA's stewardship of this program; however, this transfer is logical in light of the Secretary of HUD's responsibility in the homeless area. This is no longer a one-time emergency program, and is now an integral part of the response to homelessness under the McKinney Act.

Thank you, Madame Chair. My staff and I will be pleased to answer any questions.

"VALDEZ" OILSPILL

Senator MIKULSKI. Thank you very much, General Becton. I have questions related to your overall request as well as some related to specific programmatic content. However, all of America's eyes and indeed the world, is now focused on the *Valdez*, probably one of the largest and most significant environmental disasters to hit not only America, but our planet.

How we have responded to this is indeed a cause of both national and international concern. We have with us, as a member of the full committee, Senator Ted Stevens. Because my questions are so programmatic for purposes of appropriation, I am going to yield to Senator Stevens for the first phase of questioning, because I think the committee wants the record to use the *Valdez* as kind of a case example on readiness, response, coordinated effort.

So I am going to save my questions and have Senator Stevens start with the *Valdez* issue which was, of course, of primary concern to me.

Senator Stevens, why don't you lead off?

Senator STEVENS. Thank you very much. I appreciate your courtesy, Senator.

General, did you send anyone to Valdez after the spill came to your attention?

General BECTON. We sent a representative to the Alaskan area to be part of the assessment team immediately after it became known to us.

FIELD OFFICE IN ALASKA

Senator STEVENS. You no longer have a person in Alaska; is that right? You closed your Alaska office, did you not?

General BECTON. I beg your pardon, sir?

Senator STEVENS. You closed your Alaska office, did you not?

General BECTON. We do not have an Alaska office as such, sir.

Senator STEVENS. You did until last year. It is my understanding there was a person in Anchorage that conducted your affairs.

When did you close the Alaska office?

General BECTON. Sir, I have been the Director since November 1985 and during that period I have not had an office in Alaska.

Senator STEVENS. You haven't had anyone there since 1985? I understood you had a person there until last year. At least there was one in the State last year. When did you close it? There was one right after your Agency was created.

General BECTON. I'll have to go to the people, sir, who were here long before I, because as I said there has been no office in Alaska since I've been the Director.

Mr. PETERSON. Senator Stevens, I believe what you are referring to is that whenever there is a disaster declared in a State, we open what is called a disaster field office to deal with citizenry and the government on individual and family grant issues and public assistance.

Senator STEVENS. You didn't do that in this instance, did you? Who are you?

Mr. PETERSON. I'm Grant Peterson, sir. I'm the Associate Director for State and Local Programs.

Senator STEVENS. I notice that the General didn't describe anyone as handling disaster assistance. Do you handle disaster assistance?

Mr. PETERSON. Yes; one area under my directorate is to handle the President's disaster declaration process, sir.

DISASTER ASSESSMENT OF VALDEZ AREA

Senator STEVENS. Did you have someone that examined the Valdez area to see if it was an area that should be declared a Federal disaster?

Mr. PETERSON. We certainly did, sir. We received a notification from the Governor on March 27, and on March 29 we had our professional in region X, which is Bothell, WA, expedited to the Valdez area. The individual's name was Mr. John Kenrad, and he was there to consult with the members of the national oil and hazardous substance pollution contingency plan, coordinators from EPA, Coast Guard, and the State, sir.

Senator STEVENS. And did you give advice to the President on the status of this spill, whether it was sufficient to be declared a national emergency?

Mr. PETERSON. We did formalize a report from Mr. Kenrad's visits there on an ongoing basis, and we did forward that information, sir.

EMERGENCY DECLARATION RECOMMENDATION

Senator STEVENS. But did your Agency recommend that this be declared a national emergency?

Mr. PETERSON. We did not recommend that it be declared as a national emergency under the request and parameters as requested by the Governor of Alaska, sir.

Senator STEVENS. Why was that?

Mr. PETERSON. If I may take just a moment, sir, there are two items under the Stafford Act that can be requested by a Governor. One is a declaration of emergency, and the other is a declaration of a disaster. The Governor of Alaska chose to request a declaration of emergency.

Under the criteria of the Stafford Act, sir, he must then request specifically what aid he would like to have for his State, and that is what we work our in-the-field analysis against. He asked for technical assistance and coordination, sir.

Senator STEVENS. And did you correspond with him concerning his request?

General BECTON. I did, sir; I sent a letter to the Governor.

Senator STEVENS. When did you send that, General?

General BECTON. The letter was dated April 11.

Senator STEVENS. April 11?

General BECTON. That is correct, sir.

Senator STEVENS. And the disaster took place on March 24.

General BECTON. Yes, sir; we received the Governor's request on March 27. We were advised that both the Coast Guard and EPA, under the national contingency plan, were on the scene and were providing the things that the Governor had asked for.

Senator STEVENS. Who gave you that advice, General?

General BECTON. Who gave me the advice that they were up there?

Senator STEVENS. No. Who gave you the advice that the Coast Guard and the others on the scene were providing what the State had asked for?

General BECTON. Sir, this was determined in our coordination with those two agencies.

Senator STEVENS. You said you were advised. Who gave you—have you got a letter?

General BECTON. I do not have a letter, sir, but I do know that from talking with the Coast Guard headquarters and with the Environmental Protection Agency that they were providing the assistance and the coordination that the national contingency plan calls for.

RESPONSE TO OILSPILL

Senator STEVENS. The Environmental Protection Agency isn't even involved. They're not involved in marine disasters, General. I'm trying to find out what your Agency did before it determined not to do anything.

You say you normally open an office when there is a request from a Governor. Did you open an office in Anchorage on this one?

Mr. PETERSON. That is not what I said, sir. What I said is if a declaration is made by the President, then it is normal for this Agency to open what is called a disaster field office.

Senator STEVENS. I helped write your law and worked with Senator Magnuson on creating your Agency from its predecessor agency. Now I'm trying to find out why it didn't function in my State at the largest oilspill in the history of the United States.

And it's my understanding from what I have been told that you did not have an office open in Alaska. You may have had one person go up there, but you have not done anything since it happened. Is that correct?

Mr. PETERSON. We did send an individual up there. He talked to the individuals involved with the national contingency plan, which was created to respond specifically to oil and hazardous substance pollution contingencies.

Senator STEVENS. Who is that?

CONSULTATION WITH NATIONAL RESPONSE TEAM

Mr. PETERSON. That's the national contingency plan, sir. And underneath that plan is a national response team and a regional response team. Those are members who are involved in the response process under the national contingency plan which is in place specifically for oilspills, sir.

Senator STEVENS. Let me see if I understand this. Have you ever responded to an oilspill since your Agency was created?

General BECTON. We have not, sir.

Senator STEVENS. You do have jurisdiction over hazardous materials, do you not, whether they're in the marine environment or on land?

Mr. PETERSON. We have some authorities under the Hazardous Material Act; that is correct, sir. I would like to reemphasize that the national contingency plan was set up in the federal system to assign support and coordination from Federal agencies to respond specifically to an oilspill. It is outside of the parameters of the Stafford Act, as written, specifically.

We are in compliance with the act as it is written and as it was passed in a renewed form under the Stafford Act as of last year.

Senator STEVENS. But I'm trying to find out, you do have authority if the President declares an emergency, don't you?

Mr. PETERSON. Yes, sir.

Senator STEVENS. Or a disaster.

Mr. PETERSON. Yes, sir.

Senator STEVENS. And you do have someone that goes up to find out whether he should take that action; right?

Mr. PETERSON. Yes, sir; and we did that.

Senator STEVENS. And your people recommended that neither action be taken this time; isn't that correct?

Mr. PETERSON. Our people recommended, after consultation with the national contingency plan individuals, the national response team——

Senator STEVENS. Who was that?

Mr. PETERSON. The national response team is made up of the Departments of Agriculture, Commerce, Defense, Energy, Interior, Justice, Labor, State, Department of Transportation, EPA, Department of Health and Human Services, Nuclear Regulatory Commission, U.S. Coast Guard, and the Federal Emergency Management Agency.

Senator STEVENS. And they call that the instant command team, I believe, that is dispatched to the scene. Do you know what happened to the instant command team in this instance? Do you know what happened to them?

Mr. PETERSON. The national response team?

Senator STEVENS. Yes; who in your organization spoke to that team up there?

Mr. PETERSON. The national response team meets in Washington, DC. We are a member of that, and we meet weekly on that issue. It's chaired by the EPA.

There is a regional response team of regional Federal representatives who are up there and our representative spoke to those individuals to assure——

Senator STEVENS. I want names.

Mr. PETERSON. I will give you the names but I have to do that for the record, sir.

[The information follows:]

FEDERAL RESPONDERS TO THE OIL SPILL

National Response Team (NRT):

Agency	Name
Environmental Protection Agency	James Makris, Chairman
United States Coast Guard	Captain Richard M. Larrabee, Co-Chairman
Federal Emergency Management Agency	Craig Wingo
Department of Commerce	George Kinter
Department of Interior	Bruce Blanchard
Department of Agriculture	Bill Opfer
Department of Defense	Sam Napalitano
Department of State	Bob Blumberg
Department of Justice	Sheila Jones
Department of Transportation	Alan Roberts
Department of Health and Human Services	Georgi Jones
Department of Energy	Richard Dailey
Department of Labor	Frank Frodyma
Nuclear Regulatory Commission	Gary Zech

Region X Regional Response Team (RRT):

Agency	Name
Environmental Protection Agency	James Everts, Chairman
United Stated Coast Guard	Captain D.A. Anderson, Co-Chairman
Federal Emergency Management Agency	William Brown
Department of Commerce	Cdr. Larry Keister
Department of Interior	Chuck Polityka
Department of Agriculture	Richard Pierce
Department of Defense	Gordon Taxer
Department of Justice	James Nichol
Department of Transportation	Capt. D.A. Anderson
Department of Health and Human Services	Mike Street
Department of Energy	G. Westberger
Department of Labor	Richard S. Terrell

Senator STEVENS. I found that team in Seward. It was not in Valdez. It had been rejected from Valdez by Exxon. I would be very surprised if your people talked to them in Valdez or talked to them around the scene of this incident at all.

Mr. PETERSON. I would be most honored to provide you for the record specifically who these individuals were spoken to, sir.

RECOMMENDATION TO PRESIDENT ON "VALDEZ" OILSPILL

Senator STEVENS. Tell me this. As a Senator from Alaska, why should I support any more appropriations for this organization of yours? It has money in a disaster fund. We have the largest oilspill in history in the United States. You send somebody up there, and he gives advice to the President that this is not a natural disaster or an emergency, and neither needs to be declared. And your leader, the head of the Agency, responds to my State 2 weeks after the incident took place.

It was a little bit more than 2 weeks, wasn't it, General?

General BECTON. Sir, the letter was dated April 11. However, the State Emergency Service—I think his name is Martin—knew what was in the letter. Also the Governor had been advised what was in the letter.

I would like, sir, to make a comment. We did not advise there was no emergency to the President. What we advised——

Senator STEVENS. When I got to the President's office, someone had advised him that; that he should not declare an emergency. And I'm trying to find out who.

General BECTON. We did not advise that there was not an emergency. We advised the President that at that time the national and regional response teams would do everything that FEMA could do. And they were there, and there is a plan specifically covering oil.

Senator MIKULSKI. Excuse me. I missed that sentence, if you would, General. Who was there that could do everything FEMA could do? Who was that? What Agency was that?

General BECTON. The national contingency plan directs, among other things, the establishment of a coordinating officer, which is what the Governor specifically asked for. The Coast Guard was given that responsibility in the plan, and that assignment was reiterated by the President.

Senator STEVENS. You make grants to people who are harmed by disasters, don't you?

General BECTON. After the President has declared a disaster; yes, sir.

Senator STEVENS. Even manmade disasters.

General BECTON. That is correct, sir.

Senator STEVENS. Spills—if this had spilled on a road or something, was a hazardous material and people were injured, and it's declared a national emergency, you would make grants to them or you could assist them during the period of the disaster.

General BECTON. Not from an oilspill on a highway, sir.

Senator STEVENS. They don't spill 12 million barrels of oil on too many highways. But if you had a land spill of that size, I assume you would be involved.

General BECTON. Sir, if it came under the national oil and hazardous substance pollution contingency plan, FEMA would not become involved.

Senator STEVENS. I'm trying to find out on whose order that's the case. Why did you send someone up then? You knew it was an oilspill before you went up.

General BECTON. Because we also are a member of the national contingency plan or regional response team.

USE OF DISASTER RELIEF FUNDS

Senator STEVENS. General, it is my understanding that you can use your disaster relief funds for individuals, families, or State and local governments to assist them in meeting a disaster that's declared by the President or an emergency declared by the President in their recovery; isn't that true?

General BECTON. That is true, sir.

Senator STEVENS. Now, what it takes is a declaration by the President, doesn't it?

General BECTON. That is correct, sir.

Senator STEVENS. Is there anything in that order you're talking about that prohibits you from making that finding when there is an oilspill?

Mr. PETERSON. Senator Stevens, the answer to your question is "Yes."

Senator STEVENS. Then why did you send someone in the first place?

Mr. PETERSON. Because we are—if I could bring the tiers of operation in here, sir, respectfully, I think I could clarify the reason that all of the needs requested by the Governor were being met.

SBA DISASTER LOAN FUND

Senator STEVENS. Let me tell you, you could sit there all day and you wouldn't tell me that all the needs were met. I'm just back from there, from 8 days, and they're not met yet—5 weeks afterward. You can make grants, you can give assistance to governments. You had $5 million in the fund you could have touched immediately without any further requests from anybody, to assist those local governments in meeting their costs. You could have assisted some of the businesses that still are begging the SBA for loans. You did not need that authority at all.

I want to get into that, too, because you want to do away with the disaster loan fund, I understand. That's one of the requests in this proposal before us now, isn't it, General?

General BECTON. Yes, sir; we are requesting funds for the President's disaster relief fund.

Senator STEVENS. And you take it from doing away with the SBA disaster loan fund.

General BECTON. No, sir; that's not quite accurate.

Senator STEVENS. What is accurate then?

General BECTON. Under the proposal of the administration, some funds will be moved from SBA over to FEMA.

Senator STEVENS. Let me understand this. The request is coming from the administration to move the small business disaster loan

fund money to the disaster relief fund and do away with the SBA loan fund. Now, isn't that true?

General BECTON. As I have been told, sir, it has nothing to do with the disaster relief fund.

May I have my Acting Budget Officer respond to that, sir?

Senator STEVENS. Yes.

Ms. MOODY. The way OMB advised us of their intent, sir, was that the Administration was going to present a legislative initiative for the SBA to abolish its Disaster Loan Program, and that they expected the Individual and Family Grant Program would be impacted by the SBA's abolition of its program. So part of the SBA legislative proposal will be more money for the disaster fund, for the individual grants.

Senator STEVENS. Have you got a copy of this order?

Just a couple more questions, Madam Chairman. You've been very patient with me.

Somewhere down the line something prevented, from this FEMA organization that we all thought was to help us in an emergency, from helping us in this instance. Now, you say this order that was signed creating this group, the interagency group, in your opinion took that authority away from you? Will you give us a copy of that?

Mr. PETERSON. Yes, sir.

Senator STEVENS. Have you got it with you, anybody?

General BECTON. Yes, sir.

CRITERIA FOR DISASTER DECLARATION

Mr. PETERSON. I would like to just make one more statement if I could, sir, and I certainly respect the concern you have and the many committees you've been on. I've watched you with the Department of Transportation, the Coast Guard, and I understand your concern and respect that.

What I'm trying to relay to you today if I may, sir, is that in order to declare a major disaster under section 101 of the Stafford Act passed by Congress, it must be caused by a natural event or, regardless of the cause, must result in a fire, flood, or an explosion. Those are the limitations under the disaster——

EMERGENCY REQUEST

Senator STEVENS. Precisely. I advised the Governor's Office that. They didn't ask for that, did they?

Mr. PETERSON. No; and under the emergency, they asked for specifically two things. Both of those things were covered very efficiently, sir—maybe not very efficiently, but totally, by the national contingency plan and by the national response team. And it gives five criteria under the national contingency plan that the national contingency plan must deal with.

Three of those meet the requirements that the Governor asked for, sir.

INTERPRETATION OF STAFFORD ACT

Senator STEVENS. Let me ask just one last question, and that is this. Are you telling me that it's your interpretation that under the request made by our Governor pursuant to the emergency provision of section 103 of the Stafford Act that you have had no authority to make funds available as you would in any other disaster for individuals or businesses or communities that needed help in that emergency?

Is that your statement?

Mr. PETERSON. That was the interpretation of the law that has just been passed in the Stafford Act and——

Senator STEVENS. By whom?

Mr. PETERSON. The law was passed by Congress last year, sir.

Senator STEVENS. I understand that. Who interpreted it?

Mr. PETERSON. This was legal counsel. It was through an extensive analysis to ensure--and that's one of the reasons we took a few days—that those two items the Governor had requested, coordination and technical assistance, under the five elements of the national oil and hazardous substance pollution contingency plan.

That was the rationale for the rejection of those specific two requests and the triggering of the emergency, sir.

Senator STEVENS. Do you have such a legal interpretation? Is there written opinion?

Senator MIKULSKI. Or a memo, or something else like that?

Mr. WATSON. Sir, we can submit that for the record.

Senator STEVENS. I don't want written now. I want to know did you have any such advice at the time?

Mr. WATSON. At the time, yes, sir. Under the emergency part of the legislation, from a legal standpoint, one of the requirements is that there are no other authorities available to meet the need. In this instance there were other statutes and other authority, not part of FEMA's authority, but EPA's and the Coast Guard's, that could handle that specific situation.

The other thing which was a complication on the legal aspect is the provision of the act which prevents the Government from recovering costs under the Disaster Act from the perpetrator, in this case Exxon. So under our act, we have no authority to recoup any of those costs from the Exxon people unless it was, in effect, a deliberate act.

Now, under other authorities, there is a provision so that the person responsible can be expected to pay for it, and that's another important consideration with respect to the recommendations made by FEMA.

Senator STEVENS. I'm not going to belabor it here right now, Madam Chair, but I'd like to see that. Whoever wrote that, I'd like to see it, because he can come before another committee and answer some questions on how he construed the law that way. There is no such—particularly if you read together the Clean Water Act and your authority, the Disaster Act, that is, and the Alaska pipe line, I can clearly see there are three ways to recover the costs that are put out by any person in connection with this incident.

But somehow or other, our people were denied the protection that we thought was available through FEMA. There was no such intention on the part of Congress to my knowledge, and I've checked with the people who worked on the act. I think everyone here was appalled that your Agency decided not to recommend to the President to have an emergency in this situation.

Madam Chairman, I am pleased that you gave us the opportunity to make the inquiry. I look forward, General, to getting those documents.

General BECTON. We will provide them, Senator.

[The information follows:]

INTERPRETATION OF STAFFORD ACT

Title V of the Robert T. Stafford Relief and Emergency Assistance Act ("the Act") authorizes the President to provide assistance in response to Presidentially-declared emergencies. The Act, as well as the legislative history leading to the enactment of the Disaster Relief and Emergency Assistance Amendments of 1988, P.L. 100-707, indicates a Congressional intent that the Act's emergency authorities cannot adequately address a situation. For example, S. Rpt. 100-524, 100th Cong. 2d Sess, which accompanied S. 2380, states in pertinent part at page 4:

> In any emergency the President must first invoke other Federal authorities available to him to meet the crisis. If there are other authorities, the role of the Federal Emergency Management Agency would be limited to providing technical assistance and coordinating the efforts of other Federal agencies under authorities granted to them under other Federal acts. Only afer a determination that assistance under other Federal authorities is inadequate to meet the crisis may FEMA directly intervene.

In addition, Congressman Stangeland—one of the sponsors of H.R. 2707—stated in pertinent part in a floor debate on October 21, 1988:

> . . . we do not intend for emergency declarations to be available in responding to . . . environmental . . . catastrophies for which Federal assistance is already available.

The National Contingency Plan (NCP) which is authorized by section 311 of the Federal Water Pollution Control Act provides the United States with authority to respond to the oil spill. Therefore, the declaration of an emergency under the Act, to trigger authorities which were already available under the NCP, was unnecessary.

LACK OF FEMA PRESENCE IN ALASKA

Senator STEVENS. I intend to pursue it so it doesn't happen to someone else. It's too late for us.

Senator MIKULSKI. If the Senator could stay for a few minutes, I'd like to pick up on this. First there is the literal interpretation of the law and I think you have given a rather rigorous explanation of that. But then there's the spirit of the time.

All of a sudden we wake up one morning and a ship we had never heard of, called the *Valdez*, hits a reef and is leaking oil in what has emerged now as a Chernobyl of an oilspill. It is an ecodisaster of unfathomable and unmeasurable proportion. Somehow or other, it has not only touched the pocketbook of Americans, devastated the economy of Alaska, but it has touched the heart and soul of the American people.

Now, having said that, the question is not only what happened, because we're not here to do either an anatomy nor an autopsy of the Alaskan situation, but the future. I'd like to get into the spirit of this stuff a minute.

General Becton, you're a "can do" guy. You're a field man. You're a general. When I saw—and this again is to get at the situa-

tion—all of a sudden, I see where the President tells Skinner of DOT—Coast Guard—Yost, the Commandant of the Coast Guard, and Bill Reilly to get up there in Alaska and find out what the heck's cooking and report to him.

Why weren't you there? Why weren't you there? Why weren't you in that gang of three? Why wasn't there a gang of four? Because you are, in my mind, unless there's some serious statutory deficiency, you should be the President's man on a disaster because you know the most about disasters. Bill Reilly knows more about water quality, but he doesn't necessarily know zingo about disaster and the coordination of people and materiel to respond to a disaster, regardless of what that is.

Could you tell me that? And that's not in any way meant to embarrass you or whatever, but you should be the President's man. You should be the 911 out of the White House.

General BECTON. Madam Chair, I wish I could answer the question as to why I was not called to go. I cannot answer the question. We were not called.

Senator MIKULSKI. I understand that, sir. Should you have gone? Should you have been called?

General BECTON. Let me see if I can phrase it. If there were no national contingency plan or act, certainly FEMA would be involved.

REASONS FOR FEMA'S ABSENCE IN ALASKA

Senator MIKULSKI. He called Bill Reilly. I think he's a fine Secretary. I'd like to make him a Secretary as a matter of fact. He's a fine administrator. But he doesn't know zingo about disaster, and he hopes one in Superfund doesn't happen on his watch.

Now, this has happened here. My question is: Was it an inexperienced White House who didn't know who to call? Is there statutory deficiency? Is there bureaucratic bungling? How would you give an assessment?

General BECTON. Again, I would say, Madam Chair, the national contingency plan specifically addresses the subject of oilspills and pollution. That is the only subject it addressed from this standpoint. If it were not for that, we certainly would have been there.

Senator MIKULSKI. So it is statutory. Well, what this committee would like, and I would like really to ask on behalf of the Senate, not only on behalf of this committee, would be a statutory analysis of why you were not there to respond, so that we could then move on this in a very positive way, and I know Senator Stevens would look forward to that so that we could join together in correcting this statutory deficiency.

And while you're at it, I would look at it overall for statutory deficiencies because again it is my very firm belief that FEMA should be among the first response agencies called even to give an assessment to the President of the United States, so then the President knows what to do and who ultimately to make the point person. Maybe it should be the Commandant of the Coast Guard, but you should be—when I say you, sir, I mean FEMA should be the "911" that the President calls to help go up with the team, whatever he assembles, to give him an assessment of no matter

what happens. I not only want to do it one eco-catastrophe at a time, we would like on behalf of the Senate on a bipartisan basis a statutory evaluation of the appropriate bills.

General BECTON. We'll be happy to provide that.

[The information follows:]

STATUTORY EVALUATION - STAFFORD ACT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act was enacted November 23, 1988. It authorizes the President, upon the request of a Governor, to make a declaration of major disaster or emergency to provide supplemental Federal assistance when a situation is beyond the capability of the State and affected local governments to effectively respond.

Both the Act itself and supporting legislative history clearly indicate that a declaration of major disaster is intended for natural catastrophes or for fires, floods or explosions, regardless of cause. The range of assistance authorized by the Act for these types of events is broad. It includes grants for repair or replacement of government-owned and private non-profit facilities as well as assistance for home repairs or temporary alternate housing, grants for the disaster-caused serious needs and expenses of individuals and families, unemployment assistance for individuals who lose their jobs or are temporarily out of work because of a major disaster, and other programs of assistance.

The Federal Emergency Management Agency's recommendation to the President on whether to declare a major disaster or not is based upon a variety of factors. These include whether the situation meets the definition of major disaster, is beyond the response capability of the State and affected local governments and whether there are disaster-caused unmet needs which can be met effectively using the programs available under the Act.

For a declaration of emergency the definition is much broader with regard to the type of incident which can be considered but the types of assistance are more restricted. Any incident which is beyond State and local capability to respond may be considered, regardless of cause, but assistance is limited to essential emergency activities in order to protect life, health, safety and property. Only two of the recovery programs available in a major disaster are also available in emergency: i.e., debris removal and housing assistance for those whose homes are unlivable due to the emergency. Legislative history contains many references to the fact that it was the intent of Congress to permit emergency declarations to provide short-term immediate assistance for unusual events outside of the normal flood, tornado and hurricane situations for which the disaster program had been used traditionally. It is equally clear that a declaration of emergency is not intended to be used where other authorities exist to address a particular problem.

In the situation involving the oil spill in Alaska, the

assistance available under the Stafford Act proved to be unnecessary; however, this did not minimize the scope or effectiveness of the Federal response. The National Contingency Plan (NCP), which is authorized by section 311 of the Federal Water Pollution Control Act, is specifically designed to meet the demands of a hazardous materials situation such as that of the Alaska oil spill. The NCP provides for a National Response Team (NRT) and a Regional Response Team (RRT). The NCP and the RRT were activated upon notification of the oil spill and incorporated all appropriate Federal resources and expertise. Specifically, the assistance requested by the Governor, an on-scene Federal Coordinator to provide technical advice and assistance, was provided by a representative of the U.S. Coast Guard.

It is our evaluation that the Stafford Act is adequate to address the situations for which it was designed. There were no unmet needs resulting from the Alaska oil spill which could have been addressed appropriately through this authority.

A chronology of events follows:

ALASKA OIL SPILL CHRONOLOGY

March 24: Oil spill occurred at Valdez, Alaska.

March 25: The Regional Response Team was activated under the National Contingency Plan (NCP). Coast Guard is lead agency.

March 26: Governor Steve Cowper declared a Disaster Emergency and implemented the State Emergency Plan.

March 27: Governor Cowper requested a Presidential declaration of an emergency under Title V of PL 93-288, as amended, for the appointment of a Federal Coordinating Officer to provide technical and advisory assistance to Federal, State, and local governments.

National Response Team under the NCP met in Washington, D.C.

A staff member from FEMA Region X deployed to Alaska to gather information to process the Governor's request.

March 29: FEMA Region X prepared a report of findings and transmitted it to FEMA Headquarters.

March 30: FEMA Director Julius W. Becton, Jr. forwarded

a report and recommendation to the President.

April 7: President Bush announced that Secretary of Transportation Samuel Skinner would serve as the President's personal liaison to the cleanup efforts, responsible for mobilizing and coordinating all Federal government response; Admiral Paul Yost, Commandant of the U.S. Coast Guard, and Vice Admiral Clyde Robbins would assume personal oversight direction of the cleanup effort, working with Exxon and the Governor of Alaska; and the Department of Defense was directed to make available all facilities, equipment and personnel that could be effectively utilized in assisting the cleanup of spilled oil.

April 11: The Governor was notified that the request was denied for assistance under PL 93-288 because the assistance had been provided under other Federal authorities.

MANAGING OILSPILLS

Senator MIKULSKI. Would that be of help to the Senator? Certainly I think we would be doing this in the name of the Senate.

Senator STEVENS. I thank you very much for that and I'm happy to join with you. I'd like that to include an analysis of this plan that's been mentioned. This is the first time I have heard that the application of that plan effectively shuts FEMA off from use of disaster moneys in the event of the triggering of such a plan.

And the implication here is that an oilspill is entirely outside the Stafford Act by virtue of that plan which was not envisioned by the Stafford Act in my judgment. I don't know how that interpretation came back. So I would join you in that request. I emphasize the problem. I don't know if you know it. *Exxon Houston* hung up in Hawaii. The other Exxon tanker lost its power going towards Puget Sound. We lost the *Exxon Valdez* right outside of Valdez. You know, that's three times.

It would seem to me that the concept of a national disaster in terms of oilspills ought to be within the competence of people who are there to handle emergencies and, if nothing else, you would have sent some people up there to find out whether there was the equipment to curtail that spill, who was going to manage it, who was going to marshal the assets, and what financing was needed, and who in terms of individuals and small businesses were harmed and weren't going to be able to survive during this period. We've already had some of them go out of business, and I think it's directly because your services were not there.

Senator MIKULSKI. So we're going to look forward to that.

Senator, we're going to have to move on to earthquakes now.

Senator STEVENS. Yes; thank you very much.

Senator MIKULSKI. I think you've just caused one, but——

General BECTON. Madam Chair, may I make one other comment, please?

Senator MIKULSKI. Yes; and then we're going to go back to the overall budget.

General BECTON. We will be happy to provide that assessment, but I also would point out that we did give to the President an assessment of the situation. You said that we should; we did, in fact.

Senator MIKULSKI. And then what was your recommendation?

General BECTON. It was based upon the information which we gained up there and also which the plan addressed, that it not be declared a national emergency because the national contingency plan covered it.

REDUCTION IN EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

Senator MIKULSKI. Let's turn to your budget request for most of your programs. I'd like to come back to emergency management planning and assistance. I understand that you plan to reduce the emergency management planning and assistance component by $14 million.

What will this cut do to your ability to respond to emergencies?

General BECTON. That portion that would be decreased would not pertain to the State and local governments. It would only be at the Federal level.

Senator MIKULSKI. What does that mean in concrete terms? Specifically what programs have been cut in Emergency Management, and why?

General BECTON. That's in the Government Preparedness Program.

George?

Mr. WOLOSHYN. Madam Chair, that particular cut is a part of the Government preparedness budget, and I would recommend we discuss it offline in a different forum.

Senator MIKULSKI. Is it classified? Is that what you're saying?

General BECTON. Yes, it is.

Mr. WOLOSHYN. Yes, Madam Chair.

EARTHQUAKE PLANNING

Senator MIKULSKI. Could you then tell me what is the situation in terms of earthquakes and other hazards? Has that been cut? Earthquake planning?

General BECTON. Grant Peterson will respond to that.

Mr. PETERSON. Under the earthquake category, there are really two cuts that I need to point out to you, Madam Chair, under earthquakes and other hazards. All the hazard mitigation assistance is straight lined. Dam safety is straight lined. Hazardous materials is straight lined. Under hurricanes there is a $65,000 cut. Under earthquakes is a $445,000 cut. The earthquake cut is part of an ongoing effort over a 3-year time frame to phase the State and local governments into a cost-sharing arrangement under earthquake preparedness.

And this is the third year and I know that you have reinstated that funding 2 years in a row.

Senator MIKULSKI. Why did you do that?

Mr. PETERSON. Cost sharing is a recommendation of the administration to institutionalize participation by State and local governments in the earthquake area.

STATE AND LOCAL EARTHQUAKE PREPAREDNESS

Senator MIKULSKI. And as you've done your evaluations, have the State and local governments come in with their earthquake readiness, for want of a better word?

Mr. PETERSON. In the earthquake program, we are finding, to my mind, good cooperation with the State and local governments, and we have a track record since about 1980 at this point in time. We have 13 primary sites that we are working with on an ongoing basis out of 17 States that are impacted.

There will be varying amounts of impact, depending on the State's ability to meet that match. So it could have an impact on the State.

PREPAREDNESS IN AREAS OF SEISMIC RISK

Senator MIKULSKI. I understand that there are approximately 39 States susceptible to seismic risk. Currently how many are fully prepared to respond to an earthquake? And of those States not funded for earthquake preparedness by FEMA, how many are developing an earthquake preparedness strategy on their own?

Mr. PETERSON. Actually all 50 States are subjected to some earthquake risk. However, many of those are considered to be marginally impacted on varying scales. What we have done is taken the States that we feel are the highest potential impact—that is the 17—and entered into agreements with them and grants, to work most diligently on the highest level of vulnerability.

Senator MIKULSKI. How many are fully prepared to respond to an earthquake?

Mr. PETERSON. That is a very difficult question to say fully——

Senator MIKULSKI. But that is your job to answer that.

Mr. PETERSON [continuing]. To say fully prepared.

General BECTON. Madam Chair, if I may interrupt for a second.

Senator MIKULSKI. Don't get me into words like "fully." We have already been internationally embarrassed by *Valdez*. We have been internationally disgraced by *Valdez*. And the loss of life has been to marine and animal life. Now we're down to another thing called earthquake.

If we did a risk assessment, the people of the United States would be more likely to die of risk through a fire in their own community, through a natural disaster in their own community related to fire and, God forbid, an earthquake. The Soviet Union was disgraced by their Armenian response. Where are we?

So I don't want to quibble with you about a word like "fully." All right?

Mr. PETERSON. Yes, ma'am.

Senator MIKULSKI. You understand what I'm talking about? God forbid, if something happens to San Francisco, Los Angeles, or any of the other 13 seismic hot spots, where would there be a response?

STATUS OF VULNERABILITY AND RESPONSE PLANS

Mr. PETERSON. Thank you very much, Madam Chair, and I'll give you specifics on your specific question. On the risk areas that I've identified, I'm going to cover it in two ways: whether a vulnerability study has been completed and whether a response plan has been completed. I will be as specific as I can.

The vulnerability study on the south San Andreas Fault in Los Angeles was completed in 1982, the vulnerability study and the response plans were completed in 1987, and in the Newport/Inglewood area, the vulnerability study was completed in 1988. In the San Francisco Bay Area——

Senator MIKULSKI. Have they been tested?

Mr. PETERSON. We are testing them in Response 1989——

Senator MIKULSKI. In August.

Mr. PETERSON. In August, for the San Francisco area. That is the first test since 1985 and we're accelerating that as fast as we can.

Senator MIKULSKI. Is that the test that Mayor Feinstein ordered in 1985?

Mr. PETERSON. I don't have that knowledge, ma'am. I wasn't here then.

Would you like me to continue, ma'am?

Senator MIKULSKI. Yes, I would.

Mr. PETERSON. San Francisco Bay area, north San Andreas, the vulnerability studies were completed in 1982, and for the Hayward fault in 1987. The response plan was completed in 1988, and we will be testing that in 1989 in Response 1989.

In the Puget Sound area of Seattle, WA, the vulnerability study will be completed in 1992. They did an interim response plan in 1985. It's going to be completely redone and updated for 1992.

Salt Lake City: the vulnerability study will be completed in 1989. They did a response plan in 1984 that again will be revised to incorporate the results of the 1989 vulnerability study.

Senator MIKULSKI. So you really don't know where they are in summary. They're reworking it. I mean you've got your vulnerability study done, but we knew they were vulnerable. Otherwise you wouldn't have had the study done; isn't that right?

Mr. PETERSON. Yes; and many of the response plans are done. Most of the response plans are done.

TESTING OF RESPONSE PLANS

Senator MIKULSKI. And have you done any type of testing of these responses? I know you're going to do a full dress test in California in August.

Mr. PETERSON. The State and local governments, in accordance with agreements that we have with them, do regular tabletop exercises to test their response plans, not just earthquake response plans. We've come in with the Federal linkage in earthquakes in 1989, and we have annual ongoing plans to begin to take the prioritized areas—meaning the ones that we consider to be the highest vulnerability—and work with them on an annual basis.

Senator MIKULSKI. Do you think we're ready, having gone through those statistics? Do you think we're ready to handle an earthquake in the areas that are most ready to happen?

Mr. PETERSON. I think that we have a ways to go, but I think we are in much better shape than we were 2 years ago.

Senator MIKULSKI. Then how much money do you need to do that?

Mr. PETERSON. It is estimated that we could use about three times our budget.

Senator MIKULSKI. Three times the earthquake budget or three times the preparedness budget?

Mr. PETERSON. The earthquake budget.

REDUCTIONS IN FEDERAL PREPAREDNESS

Senator MIKULSKI. Let's talk about something called Federal preparedness, because I understand that's down as well. Is that what is the classified?

Mr. WOLOSHYN. Ma'am, Federal preparedness itself is not down. The Government preparedness part is down, and that's the classified budget, Madam Chairman.

REDUCTION IN TRAINING AND FIRE PROGRAMS

Senator MIKULSKI. OK. What about training and fire? Hasn't that been cut $1.8 million?

Mr. MCLOUGHLIN. Yes. The reduction in the training portion of the training and fire budget is in the stipend program. There is about $800,000 reduction in the stipend program.

REDUCTION IN STIPENDS

Senator MIKULSKI. And why was that cut? Isn't that for volunteer firefighters to come and really get up to speed in the new techniques, particularly the new techniques and the new hazards that they're facing, which are quite sophisticated?

Mr. MCLOUGHLIN. Madam Chair, we do have volunteers at both the National Fire Academy and the Emergency Management Institute. They make up, however, in the Academy only about 3 percent of the total population.

Senator MIKULSKI. Who does this $800,000 cover?

Mr. MCLOUGHLIN. The $800,000 covers the National Fire Academy students.

Senator MIKULSKI. And who are those students?

Mr. MCLOUGHLIN. Those students generally are paid firefighters from throughout the United States. There's an additional $301,000 for the National Emergency Management Institute for its stipend program as well.

REQUEST TO OMB FOR TRAINING AND FIRE

Senator MIKULSKI. And do you think that your funding for training and fire is adequate? What did you put into OMB?

Mr. MCLOUGHLIN. The amount that went into OMB?

Senator MIKULSKI. Because when we talked about earthquake management, we know that we could handle three times what the budget is.

Mr. McLOUGHLIN. We asked OMB for $10.4 million for the Emergency Management Institute; we asked for $4.4 million for the National Fire Academy. Those are both EMPA funds only.

Senator MIKULSKI. And what did you get?

Mr. McLOUGHLIN. We received for EMI $2.6 million, and for the National Fire Academy $3.4 million.

Senator MIKULSKI. You asked for 10 and you got 2 point something?

Mr. McLOUGHLIN. Yes; that $10 million included a significant increase in the non-civil defense portion of our training program.

ADEQUACY OF FUNDING FOR HAZARDOUS MATERIALS PROGRAM

Senator MIKULSKI. I see.

I want to go to the question of underfunded mandates and then yield to my colleague from Iowa before I come back on round 2.

There is a growing concern among State and local emergency managers regarding programs such as the Hazardous Materials Program and the Dam Safety Program. I could go through specifics, but the question is: Are your current mandates underfunded? For example, in hazardous materials, the funding is $200,000 with 15 full-time equivalents. Local managers just don't have the resources to implement that.

General BECTON. They are underfunded.

Senator MIKULSKI. By about how much?

Mr. PETERSON. I would estimate that we could use in the next year, three times the amount that is available and we could use it in the basic areas that we're dealing with presently.

Senator MIKULSKI. Three examples.

Mr. PETERSON. One is the hazardous material information exchange, which is a computerized interconnect, which is working very well for the limited amount of resources that are available, but that's $80,000 in one big chunk. We have an outreach support group that we're working with, but we're limited to $20,000 to do that. We need significantly more outreach to deal with State and local governments. They're willing. There is no question about that. And we have the ongoing concerns of training issues in dealing with hazardous materials.

Senator MIKULSKI. So it's a significant issue; isn't this correct?

Mr. PETERSON. It is a significant issue. There are, of course, other agencies that have a lot more money than we do in dealing with hazardous materials, such as EPA, but our role could certainly be enhanced.

Senator MIKULSKI. You are the ones really again, 911 is coming from local governments to ask you for your information. I'll call it your hazardous material hotline, is one of the important tools we have. If something turns over on a beltway, or even a small rural road in Nebraska or Iowa, they know if they call that hotline, they're going to get the facts on how to respond.

Am I correct? I mean not only to protect the community, but to protect the responding public safety officer.

Mr. PETERSON. That's a very valuable tool that has worked in conjunction with the Department of Transportation.

Senator MIKULSKI. Thank you.

Senator Grassley.

POPULATION PROTECTION PLANNING IN IOWA

Senator GRASSLEY. Thank you, Madam Chair. First of all, General Becton, I want to thank you for your help over the past year. I particularly want to point out the help that your agency gave to Council Bluffs, IA, during the tornado at that particular time. I know that that community appreciates the professional way in which your staff responded to their needs at that time, and even since then your staff has been helpful in upgrading an emergency plan for that community, particularly the people out of Kansas City.

Just this last week, then, there were other tornado warnings in that particular area, so we already know that that particular help has been beneficial and useful already.

We particularly had your help in application for some additional sirens for the city and they're going to be put in an area where that city had expanded, and as a result of that expansion they didn't have the protection that they should have had. And so I appreciate that.

I think it's particularly important because this is right across the river from the Air Force base, so we not only have a need for protection for civilian areas, but also for military as well. So your assistance with that disaster was really appreciated.

I would like to ask you about the Population Protection Planning Program for my first question. It is my understanding that your Agency funds staff for planning by State agencies, and in Iowa it's my understanding you fund eight positions or eight planners.

Under a new policy by your Agency, the State planners can no longer work with counties which happen to get direct funds from your Agency for planning purposes. Now, in my State there is a problem when a local county needs some technical assistance in an area that they might not have the background in, and that service might be available at the State level, and because of this new policy evidently will not be able to have this sort of cooperative arrangement.

Could you explain your reasoning for this policy?

General BECTON. Thank you, Senator.

Grant, can you comment on that?

Mr. PETERSON. Senator Grassley, the population protection planners in the budget were specifically identified to be supportive to those counties that did not have any emergency management assistance personnel within that county. I believe in your State, sir, you have about 99 counties. Of those 99, 66 have emergency management personnel in them, funded out of the civil defense emergency management funding of $463,000 for those 66 counties. Thirty-three of your counties do not have any planners. We fund your State at about $72,000 for those planners to help those counties that do not have the expertise in place.

Now, I would like to state for the record that those population protection planners are authorized to give technical assistance and training to all counties, so that's the policy that is in place, and if that is not clearly understood in your State, we'll work on that.

Senator GRASSLEY. I think that there may be that sort of misunderstanding and I would ask you to look into it because I think maybe your reasoning as a general policy is probably sound, but through the rigid enforcement you might encourage some cooperation that ought to legitimately take place and might not, in fact, be in opposition to your policy.

Mr. PETERSON. We will certainly look into that, sir.

PROPOSED ELIMINATION OF SEA DISASTER LOAN FUNDS

Senator GRASSLEY. Thank you.

Could you update me on the reasons for the administration doing away with the SBA Disaster Loan Program because I know my constituents have used this program in the past and I am interested in what areas are scheduled to be ended and the reasons for that.

My question is: Can you tell me, with the doing away of the SBA disaster loan programs, what areas are scheduled to be ended and the reasons for that?

Mr. PETERSON. I'll try to give you the reasons that I'm aware of, sir. The administration's position is that the Federal Emergency Management Agency should assume the responsibility for the loan program side of SBA and convert that responsibility to FEMA under the individual family grant portion, which then becomes a grant. So you move from a loan to a grant.

There is a feeling that it will be as efficient, or more efficient, in light of the—how to say this tactfully— in light of the administration costs and in light of the poor recovery under the loan situation for SBA, to move to the grant position under the criteria of the Individual Family Grant Program. That is the logic that I understand, sir.

Senator GRASSLEY. Is that a way of saying that through the loan program they aren't apt to get the money back anyway, so it ends up being a grant so you might as well administer it as a grant?

General BECTON. Basically, yes.

FEES FOR OFFSITE PREPAREDNESS AROUND NUCLEAR POWERPLANTS

Senator GRASSLEY. Well, thank you for being candid. I think that we would all be better off if people that suggested the change would be as candid.

On another point—and this is where I started to say from your opening comments—I understand that your Agency is planning to collect fees from commercial nuclear facilities for benefits received from your organization which are associated with the offsite emergency planning requirements. So how would the agency handle the fee program when a State agency works with the commercial nuclear facility to develop the offsite emergency planning requirements and then submits them to FEMA for their review?

It would seem to me at that point the State is doing all the work; you're just reviewing them. The legitimacy in that case of the fees to be collected would not be fully warranted.

General BECTON. As you are aware, Senator, we haven't collected any fees yet, to start off with.

Senator GRASSLEY. You are proposing to do that.

General BECTON. We propose to do that.

Grant?

Mr. PETERSON. Senator Grassley, on the planning side of the nuclear power industry we have to ensure by law that the plans are adequate to guarantee the health and safety of the citizens. That takes extensive interaction by this Agency with State and local governments under the 350 process where the State is participating.

Beyond that, we also have to exercise that plan. We believe, and the regulations that have been promulgated point clearly, that a plan is not valid until it has been exercised. That requires extensive interaction of the Agency with the State and the utility. It is those site-specific costs that we are moving toward recovery on under 31 U.S. 9701, and we are promulgating regulations to collect site-specific funds for that reason.

We are also submitting proposed legislation to OMB to cover the general costs of providing guidance and regulations, sir.

Senator GRASSLEY. Are you basically saying then, that regardless of whatever that fee charge might be, that it's going to be the same cost—I assume this is being done on a cost basis of the Government doing this work for the utility, for the safety of the public, so taxes don't have to be spent, that that cost is the same to your Agency, even though the State is involved in as adequate of an emergency planning plan?

Mr. PETERSON. If I understand your question, the State is involved. We are also involved. It is our opinion that the utility is the ultimate beneficiary for the results of this work, and they should be charged for the services rendered, rather than the taxpayer sharing that burden.

Senator GRASSLEY. Would every State be involved the same way?

Mr. PETERSON. No.

Senator GRASSLEY. It is my understanding that the States might not be involved in a different way. And in the cases where the States are not involved, then there would be a lot more work for your Agency, and consequently the fee ought to be higher in that particular instance, if it's cost-based, than where the state is not involved.

Mr. PETERSON. That is absolutely correct.

Senator GRASSLEY. Will the fee reflect that, then?

Mr. PETERSON. The fee will definitely reflect that.

Senator GRASSLEY. OK. Then I think that responds to our question.

Mr. PETERSON. It will be very site-specific in that instance.

General BECTON. And I should point out, Senator, that that money does not come into FEMA. It goes to the Treasury. It is not FEMA collecting something for themselves.

Senator GRASSLEY. But it's still related to your work.

General BECTON. Yes, it is.

Senator GRASSLEY. The question is whether or not it's going to go directly to you or whether it's going to be budgeted to you. The theory of it is, it's going to be budgeted to you in future years, I would guess.

General BECTON. I would hope so.

Senator GRASSLEY. Madam Chair, thank you very much.

PROPOSED TRANSFER OF EMERGENCY FOOD AND SHELTER TO HUD

Senator MIKULSKI. Thank you very much, Senator Grassley. You followed the line of questioning on the radiological emergency preparedness that we had. Thank you very much for asking those questions.

General Becton, I want to ask some questions related to something I know that's very dear to you and you've done a very good job on the Emergency Food and Shelter Program. This goes to some of the recommendations that are being proposed.

You've handled the Emergency Food and Shelter Program and there is a recommendation to move it from FEMA to HUD. What do you think would be the ramifications of such a move?

General BECTON. Basically, Madam Chair, the Emergency Food and Shelter Program is not a one-time shot for an emergency such as a FEMA regular program. This is an annual grant that is made available to those who are in need of funds for both food and shelter.

I would like to turn to the Chairman of the Board for a more specific answer, if I may.

Gregg?

Mr. CHAPPELL. Thank you.

In answer to your question concerning what would be the ramifications of the programs going to HUD, from the FEMA perspective we're in support of that because, as General Becton just mentioned, the program was given to FEMA originally because it was an emergency program and FEMA deals with emergencies, maybe as has been pointed out here. In addition to that, most of the programs dealing with homelessness are HUD-run programs.

Now, the results of the change to HUD I cannot prejudge, but I would say that the administration feels it should be in HUD.

EFFECT OF FOOD AND SHELTER TRANSFER ON NONPROFIT ORGANIZATIONS

Senator MIKULSKI. Do you have any idea how this transfer would affect nonprofit organizations, particularly those in the religious area that have done so much to help the homeless?

Mr. CHAPPELL. The six organizations that are members of the Emergency Food and Shelter Program with which we work have expressed concerns about the move to HUD. I cannot prejudge that either. You would have to ask them what their opinions might be, but they have spoken in previous testimony on the House side.

Senator MIKULSKI. In terms of articulating their concerns and their reservations about the transfer?

Mr. CHAPPELL. Yes, somewhat, Madam Chair.

Senator MIKULSKI. And what you are saying is it would be awkward to ask you to go against an administration proposal; is that right?

Mr. CHAPPELL. I believe that would be correct, ma'am.

Senator MIKULSKI. We're not trying to in any way embarrass you. We're trying to get a picture of it. I think what we liked was, speaking for many of the members, the food and what you were supposed to get out, you got out. And it went to primarily nonprofit organizations, a variety of nonprofits. They really made maximum

use of Federal dollars, and you got it out with maximum efficiency and minimum paperwork.

Mr. CHAPPELL. Thank you.

HIRING AT THE NATIONAL EMERGENCY TRAINING CENTER

Senator MIKULSKI. Well, thank you, and we'll check with the House testimony and also with the authorizing committee who's looking at this.

We would now like to go on to the issue of the National Emergency Training Center. You know, General Becton, you just couldn't leave without me asking that. According to GAO, FEMA returned approximately 6 percent of the funds for training, salaries, and expenses to the Treasury.

Could you comment on why these unspent funds for salaries and expenses weren't used to expedite the hiring of the people at the National Emergency Training Center in Emmitsburg?

General BECTON. Yes, Madam Chair.

Dave?

Mr. MCLOUGHLIN. Madam Chair, $376,000 lapsed in 1988. That's the 5.6 percent that you made reference to. The great bulk was for the National Fire Academy. Part of the reason for that lapse was the fact that we simply could not get people on board. You will recall there were some concerns expressed by the Congress on the number of people to be hired at the facility. While we were studying it, we did indeed not fill some positions, and that, along with the difficulty that we have in the length of time it takes to bring people on board did cause us to lapse some money.

Senator MIKULSKI. So you were slow to hire because—why is that a problem?

Mr. MCLOUGHLIN. Since September 1987 when you expressed a strong interest in the number of people at Emmitsburg, Madam Chair, we have lost 19 people. During that time we have increased staff from 101 positions to 133, which is the report we sent you last Friday. That increase required 72 separate actions. Each of those actions takes us, on the average, 112 days. That's roughly 4 months per action.

Senator MIKULSKI. Why? Originally the discussion was that the staffing level would be 140 FTE's by March 31, 1988. So it's a year later, and I know we're at 133.

Mr. MCLOUGHLIN. Madam Chair, I would simply repeat, we've had 72 separate actions on trying to get up to 140.

HIRING PROCESS

Senator MIKULSKI. What is a separate action?

Mr. MCLOUGHLIN. An action is a recruitment for a position. It includes the time from the initiation of a recruitment action through to the time in which somebody is actually on board. That is roughly a 4-month process.

What happens frequently is that when we have a vacancy it is filled through a merit promotion by someone on campus that is eligible for it. So in over half the cases, there has been a promotion from within. Someone fills that vacancy from within.

Now, that hasn't increased the number of people we have on the campus, but it has offered the opportunity for a merit promotion to one of our staffers. But this doubles the length of time it takes us to bring somebody on board, which is then roughly 8 months for that one position.

Senator MIKULSKI. So let's just say you're filling a GS–12 position in a particular area, and somebody is either going to take a lateral or may be able to move themselves up through merit, experience, additional education, or training. And so while you're advertising for the GS-12 and you have to advertise in a broad way, somebody is moving up. So even though you've advertised, you then fill that by promoting within, but you then have to go back to fill their spot. Is that correct?

Mr. MCLOUGHLIN. That's correct.

Senator MIKULSKI. Is there anything that can be done to expedite that?

Mr. MCLOUGHLIN. According to the merit personnel procedures, that is the system and we must abide by it.

Senator MIKULSKI. It's going to be great when Connie Horner is running an agency over there, isn't it?, [Laughter.]

We're looking forward to that, too. I don't know if she is.

Well, that answers my question. What you are essentially saying is that the good news is that we have been able to promote from within, which essentially says to the employees there's opportunities for promotion in the same area, and then you're recruiting at a different level. And it is impossible under OPM rules, even though you can anticipate that people are moving in, you can't recruit for—we'll call it lower level. Is that right?

Mr. MCLOUGHLIN. That's correct. That would be, in effect, preselection. It means that we had made up our mind ahead of time, which we can't do.

PROMOTION PROCESS

Senator MIKULSKI. I'm a member of the Treasury, Post Office Subcommittee so the OPM issues overlap; I'm trying to use you almost in a double-dip hearing, if you will.

With the OPM rules and procedures, where you are promoting within and it can be anticipated that it will occur—because yours is a highly specialized facility— can promotion within be expedited, or does it have to follow the same steps?

Mr. MCLOUGHLIN. Madam Chair, I am not a personnelist, but generally you have to follow the processes and procedures. There are a few exceptions such as accretion of duties, but they really are the exceptions and not the general rule.

Senator MIKULSKI. You know, the reason I asked that, your Training Academy is highly specialized. The Coast Guard in Baltimore, highly specialized—and again, promotion would come within. Our wonderful jewels in Maryland, of which you are one, Goddard would tend to be promotion within; NIH, promotion within. The lab technician who might be a community college person, night schools his or her way through, an opening comes, they can move up.

Well, I don't have to tell you in our public safety, in our technical fields, one, you want to promote within. That's what career public service is all about, but it would sure be great if we could expedite that. I think when you come to the training center or NIH, you really join a mentality. It's not an agency; it's a mentality. It's an ethic. They're proud of it. They want to wear jackets and hats and white lab coats or whatever. And people at NIH don't want to go to work for Pfizer Pharmaceutical. They want to stay at NIH. And the people who work for you don't want to go to another type of public safety situation.

So I'm just interested in that, and we'll take that up at Treasury, Post Office. But that's what you face; right?

Mr. MCLOUGHLIN. That's correct.

Senator MIKULSKI. Am I right, though, in describing the picture, that once they come in they want to stay, move up? It's almost like the military. You begin part as of a platoon, a brigade.

Mr. MCLOUGHLIN. We have what we think is a fairly high esprit de corps among the two schools at Emmitsburg. And it certainly is important to them for those facilities to be used properly and to be perceived from a constituent standpoint as doing a very favorable job.

Senator MIKULSKI. Thank you. That was very helpful. I know then that you're moving to expedite it.

General BECTON. Madam Chair, if I may just make one comment.

Senator MIKULSKI. Yes, General, please.

FEMA INTERN PROGRAM

General BECTON. Our intern program is another effort in which we bring people on board, and we can use them to fill some of those positions when they become available, which is our own recruitment program.

Senator MIKULSKI. Well, thank you.

RENT AND RELOCATION

I would like to then go to some of the other budget issues, one of which is rent and relocation. In your amended budget, you're requesting $11.3 million for rent, which is a 14-percent increase over the 1989 appropriation.

Could you tell us why the rent has increased? And also GSA tells me your lease expires in August 1991, with no firm plan for renewal. And so we're just wondering what your plans are there.

General BECTON. I'd like my Chief of Staff, Bill Tidball, to respond to that.

Mr. TIDBALL. Ma'am, the rent increase is simply a GSA increase in rental cost to us. It's not an increase in the rental space as such. And we are working with GSA. GSA is at this time looking for new space for us in the Washington area or looking at renegotiating the present lease.

Senator MIKULSKI. How many people do you have now at your current site?

Mr. TIDBALL. Our current center? Approximately 800, ma'am.

Senator MIKULSKI. And GSA is working with you on that?

Mr. TIDBALL. Yes, ma'am.

Senator MIKULSKI. Are they moving with you on that?

Mr. TIDBALL. They are indeed. They're working with several other agencies right now that are attempting to combine space in this area, and looking at space that might be achieved through that process if, in fact, our lease is not renewed.

Senator MIKULSKI. Who do you think you might be going in with?

Mr. TIDBALL. We don't know at this point. We might stay right where we are. We have costs incurred in the building through some of the specialized security areas that we've got.

Senator MIKULSKI. I would imagine because of the nature of your work and your mission, you have specialized electronic equipment, some of which needs to be secure. Again, you're the 911, and you've got a lot of electronic equipment which is expensive to install, maintain, oversee; is that right?

Mr. TIDBALL. That's correct, ma'am.

Senator MIKULSKI. I see. Well, thank you. We would hope GSA moves expeditiously with you because—I mean you can tie up a lot of time just wondering about that. And then you can't plan your improvements and your modernization. Is that right?

Mr. TIDBALL. As you point out, 1991 is when the lease runs out, and we're now working on our 1991 budget so we need to know the information shortly.

Senator MIKULSKI. Well, would you welcome help to encourage GSA to move a little bit more quickly?

Mr. TIDBALL. Ma'am, I believe at this point they are working as expeditiously as they can.

RETAINING AND RECRUITING EMPLOYEES

Senator MIKULSKI. Good; that's great. I'm not looking for another letter to write, though I can write them, I know that.

The other question we have deals then with work force readiness. It's an area of great concern to the Congress and to the general public—we're now talking about the personnel issues. We believe we're now heading toward a work force shortage in the year 2000, and my question is, does FEMA have difficulty in retaining its employees, recruiting employees? We've heard about just the bureaucratic nature of what we'll call upgrading employees, but retention of people is, to me, paramount with the institutional expertise and memory, No. 1, and then also recruiting people to public service, particularly in this area of public safety.

Could you comment on that and how that is?

General BECTON. I would ask my Chief to make some specific comments, but from the standpoint of retention we don't have a problem. We have people who have been in the predecessor organizations of FEMA and, when FEMA was created, came over to FEMA and have stayed on. We have other groups of people who were caught up in a reduction-in-force back in the spring of 1986 and have come back to FEMA. So we're doing quite well there.

We also are working with promotion, we're working with upward mobility, and we think we have a happy work force. I mentioned the intern program, which is a way to bring on board professionals or people who want to become professionals in emergency manage-

ment, and we have been supported with the intern program by both OMB and the Congress in the last 2 years.

RECRUITMENT DIFFICULTIES IN SPECIFIC FIELDS

Senator MIKULSKI. Did you want to comment, because as you know, in our law enforcement, in our scientific fields, we're having a difficult time, one, recruiting and then the other, retaining. Just again, not public safety and law enforcement parallel, but we know that someone over there at the Bureau of Alcohol and Fire Arms that's making 32 grand out there fighting the Jamaican posse can be recruited by a major corporation at an improved salary and far less risk. I wonder what you're facing.

Mr. PETERSON. I wanted to mention one of the specific divisions where we are having trouble hiring some individuals. We've had some success lately, based upon the personal involvement of our managers with colleges. But in the radiological emergency preparedness area where our employees find themselves subject to being before the Atomic Safety Licensing Board in cross-examination—I've also had the privilege of doing that—and where many of our regions are located in major large municipalities such as New York and Chicago, it is very hard to find that expertise at the pay level that we can give them, especially in those regional areas. And we've been having considerable difficulty there.

Senator MIKULSKI. Could you tell me what it takes for someone to do that job, what is their education and experience, and then what you pay them?

Mr. PETERSON. Most of the people that we try to acquire have at least masters degrees in the planning area, and we have a number of engineers. So we are moving into some very qualified individuals. And if they have experience, that is like gold in the utility community. We are in direct competition with the utilities themselves for acquisition of these people. Bringing them in at 7's or 8's is extremely difficult.

Senator MIKULSKI. Tell me what that is, though, in dollar terms.

Mr. PETERSON. Let's see, that's about—may I equate a personal example? My daughter just graduated in chemical engineering. EPA offered her a 7 at $19,000, and she just went to work in the private sector; had six job offers, and none of them were below $32,000. That's the problem we're up against. And that's the caliber of people we need.

WOMEN AND MINORITIES IN TOP FEMA POSITIONS

Senator MIKULSKI. Well, as you know, Mr. Volcker has just done a major report on civil service. And I don't believe a democracy can run without a reliable civil service and a professional class of civil servants. And we thank you for that, and if you have additional thoughts, we'd like to know that as we're working in response to the Volcker report. But we're hearing this just about everywhere, and I think we could be creating a national crisis for ourselves.

We don't want necessarily the Government to be the farm team where people come in, we make a tremendous investment in their training. They get their experience. I'm for everybody making it,

don't get me wrong, but we should be able to hold on to them, particularly as they gain experience.

Your daughter's experience is a very interesting one. That takes me to my other question. Women and minorities make up 43 percent of the total work force at FEMA but only 25 percent of all GS-13's and above are held by women and 14 percent by minorities. Could you comment on that, what's being done to correct that, or is it work force availability? We know President Bush has had a renewed sense of openness among women and minorities.

General BECTON. Those numbers are correct, Madam Chair. And we're working again to do something about that to see if we can enhance our status. We have a task force to take a look at that. Again, I go back to our interns because that's where we can make a difference, starting in at a very low level, but with great potential for those to become up into the midmanagers level.

RECRUITING NEEDS

Senator MIKULSKI. What areas would you be recruiting in within your Agency, General? In other words, you have a such a fascinating array of responsibilities. You've got 140 programs where you could use a Ph.D. in nuclear engineering, to somebody with a lot of street smarts to work out there with local government, and good organizing and management skills. So it's people who handle the paperwork and the flood insurance. It's just an array. You need such a variety of skills, some managerial, some clerical, technical, administrative.

So where do you have a particular shortfall in recruiting? Where are your interns being placed?

General BECTON. We're in the process right now of finishing up a 2-year program with the interns, identifying those areas that they will be assigned to. So we're in the process of doing that.

To answer the question, I believe I'm correct, and I'll turn to my Chief for affirmation, we're having a problem recruiting GS–4 and GS–5 clerks in the cities of Washington, Chicago, Atlanta, New York and San Francisco.

Senator MIKULSKI. Do you want to comment?

Mr. TIDBALL. That clearly is one of our main needs. Although we constantly hire specialists, I think we do fairly well there compared to our emergency management specialist series of people who know programs across the board. This is exactly where the intern program is directed, so that we have people who can come in at the lower levels, and develop an understanding of the different programs that we deal with on more of a general basis.

Most of our recent hiring has been in our regional offices which is where most of our generalists are located.

CLOSING REMARKS

Senator MIKULSKI. Well, we know you're going to be making those efforts, and we know that is certainly in keeping with the

Bush administration. We have some questions that we will submit for the record.

SUBMITTED QUESTIONS

[The following questions were not asked at the hearing, but were submitted to the Agency for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR MIKULSKI

INSUFFICIENT RESOURCES

Question: A number of activities assigned to FEMA are not funded, yet it is expected that they will be accomplished. There are no funds for field response to emergencies such as preparing for contingent emergencies at events like the Olympics, major United Nations meetings, national political conventions and so forth. What specific planning mandates do you have that currently need to be funded?

Answer: FEMA's broad responsibilities under Executive Order 12148 provide the authority for contingency planning for field response to events such as the FY 1988 Olympics Games and PAN AM Games; 1988 National Political Conventions; i.e. Republican and Democratic Conventions. Similar broad authority granted to FEMA under E.O. 12656 allows FEMA to provide emergency planning assistance to support North Atlantic Treaty Organization (NATO) conferences and bi-annual exercises.

EMERGENCY FOOD AND SHELTER

Question: The Administration is currently proposing legislation to move the Emergency Food and Shelter Program from FEMA to HUD. This program transfer is said to be an attempt by the Administration to centralize homeless shelter programs. Why is the Administration proposing to move this program but not other McKinney Act programs as well?

Answer: While FEMA supports the Administration position of transferring this program to HUD, specific questions on the broad aims of the transfer or the theoretical underpinnings of such a move should be directed to HUD or the Office of Management and Budget.

Question: Would the transfer of this program change the method of distribution and how can we be sure that the funds are allocated to the most needy communities?

Answer: The answer to the first part of the question would also have to come from HUD or OMB, though it has been our understanding (one that we have conveyed to the National Board in good faith) that the program would be relatively unchanged. If

so, the decision regarding distribution would still be in the hands of the Emergency Food and Shelter Program National Board. As to the second portion of the question, regarding the most needy communities, FEMA will be sending a copy of our recent report on the matter of distribution formulas to the Subcommittee. It is a difficult issue and a hard judgment to make, but we feel our current formula utilizing the most recent unemployment statistics along with poverty figures has served as a useful indicator for emergency needs.

Question: What advantages do you see to transferring this program from FEMA to HUD?

Answer: For a definitive answer, this question is best directed to HUD or OMB.

EARTHQUAKE PROGRAM

Question: Your earthquake program request for fiscal year 1990 is $4.0 million, $445,000 less than you received in your FY 1989 appropriation. In light of the recent tragedy of the Armenian earthquake and the need for earthquake preparedness, why have you reduced your request?

Answer: The FEMA budget for earthquake programs has been straightlined since the FY 1988 submission to Congress. Since FY 1988, this straightlined budget has included a decrease of $445,000 from State and local earthquake hazards reduction to reflect cost sharing with the States. In both FY 1988 and FY 1989, Congress has reinstated this cut to FEMA's earthquake program. FEMA's FY 1990 budget is straightlined and reflects the same cut proposed in FY 1988. As in the past, FEMA's FY 1990 earthquake budget submission is presented in support of the Administration's goals for Federal deficit reduction.

Question: FEMA has a plan for federal response to a catastrophic earthquake. Is this plan sufficient for responding to an earthquake of similar magnitude to the Armenian earthquake if it were to occur here in the United States?

Answer: The Plan for Federal Response to a Catastrophic Earthquake was designed to provide for federal response to an earthquake with impacts similar to or greater than the Armenian earthquake. The plan, which was signed by 24 federal agencies, provides for the federal government to become involved in immediate life-saving activities, under

the assumption that local capabilities to do this will be immediately overwhelmed or no longer functioning. The federal government is not usually involved in disaster related life-saving activities on the scale which would be required following a catastrophic earthquake, so this plan involves a conscious and deliberate departure from normal federal disaster recovery roles.

The plan is organized around 11 "Emergency Support Functions" or ESF's. These ESF's cover such things as transportation, mass care, health and medical, hazardous materials, food, urban search and rescue, communications among others. In each of the emergency support functions, a lead or primary agency has been identified to carry out the function, with help from other "support" agencies. Each primary agency has been given a standing mission assignment from FEMA, in accordance with the Disaster Relief Act, P.L. 93-288. Consequently, each agency already knows what their catastrophic earthquake response assignment is and has autonomy to carry it out and be reimbursed through the Disaster Relief Act upon notification from the the Director of FEMA that the plan has been implemented. We anticipate that the plan could be implemented withing 2-4 hours following the occurence of a catastrophic earthquake.

There is still significant work required of FEMA and the other Departments and Agencies to be sure that the response assignments can be carried out effectively and quickly following an earthquake. This detailed planning of procedures is underway in 13 earthquake risk areas around the U.S. The earthquake plan will be evaluated in a major exercise, RESPONSE 89, scheduled for August 8-10 in Sacramento, California, based upon a Hayward Fault (San Francisco Bay Area) scenario.

Question: Do you have an inventory of rescue teams in the event of such a catastrophe and if not, why not, and does any other agency or group keep such a list?

Answer: FEMA does not have such a list. To our knowledge, no such list exists with any other federal agency or department. As a result of the Armenian earthquake, a number of groups concerned with search and rescue have indicated interest in creating a comprehensive inventory of search and rescue equipment and personnel that would be available to deploy to the scene of a catastrophic earthquake. There are lists of resources that have

been developed for other purposes that could be adapted to this purpose.

The creation of a comprehensive list of qualified search and rescue personnel and equipment, specialized medical assistance personnel, high-tech specialized equipment such as cutting saws and listening devices, dog search teams, and incident command personnel, and the creation and exercising of teams made up from these capabilities, is needed in order for this country to have an effective process for responding to multiple building collapse scenarios. Unfortunately, with only $275,000 and no FTE available for federal earthquake response planning activities, the development of such a rescue response resource is beyond our current capability.

Question: FEMA is the lead agency in the National Earthquake Hazards Reduction Program (established by Congress). Last year a new 5-year plan was released.

What new activities are being initiated due to this plan? Are efforts being made to increase private sector participation in the earthquake program?

Answer: The National Earthquake Hazards Reduction Program (NEHRP) Five Year Plan, 1989-1993 submitted to Congress in September 1988 identifies the activities to be undertaken by the four principal agencies(FEMA, U.S. Geological Survey, National Science Foundation, National Institute of Standards and Technology) to reduce the loss of life and property from future earthquakes.

As required by the Earthquake Act, the activities detailed in the Plan reflect the input and recommendations of the non-Federal, Expert Review Committee (ERC) established by FEMA. However, budgetary constraints limited the ability of the agencies to incorporate all the recommendations of the ERC Report. The Plan represents a continuation of the critical basic research programs with added emphasis on the application of research results and cooperation not only among the principal agencies, but also with other agencies, organizations and countries that are pursuing earthquake endeavors. Research activities will focus on developing a better understanding of earthquake processes and risks with increased emphases on programs to enhance our ability to forecast earthquakes. Research and implementation of practical methods for improving

the seismic safety of the built environment, especially the existing structures which present the greatest risks in an earthquake, are areas of primary focus in the Plan. The Plan includes a new emphasis on designing innovative means for technology transfer and for expanding the constituencies and organizations responsible for effecting earthquake hazards reduction. For example, the Plan calls for development of a program with State governments, to enhance local governments' promotion of, support for, and participation in the NEHRP.

In addition, FEMA details under its "Leadership" program element description that in 1990, we will "identify existing and develop new mechanisms to effect private sector/industrial involvement in the NEHRP programs." We have already begun to explore establishing a Federal/Business Partnership program that may include establishing a NEHRP Business Council, initiating a cooperative Federal/Private research program and other projects. We have already initiated a project designed to provide private sector support for the continued printing and dissemination of certain NEHRP public education and awareness materials.

Question: Although FEMA is designated as the lead agency, your agency has been criticized for not taking the lead in earthquake preparedness. In 1987, a committee of non-Federal experts appointed by FEMA recommended that a Federal Earthquake Oversight Commission should replace FEMA as the leader in earthquake activities. Do you agree with the Committee's findings? If not, what have you done to fulfill your responsibilities as lead agency?

Answer: The Earthquake Act, as amended, authorizes FEMA to plan and coordinate the multi-agency, interdisciplinary, National Earthquake Hazards Reduction Program (NEHRP). Specifically it requires FEMA to recommend the roles and responsibilities of the Federal agencies, State and local governments, and private organizations in the NEHRP; to recommend goals, priorities and budgets for the Program; to develop methods for coordinating and assisting States at risk from earthquakes; to compile and maintain a program plan and report to Congress on the Plan; and to provide for qualified and sufficient staffing of the NEHRP. These responsibilities apply to all aspects of the NEHRP, i.e., research, mitigation, response, not just earthquake preparedness.

Exercising leadership in any complex, interagency program is a difficult task; NEHRP is no exception. Although the Act defines very specific responsibilities, it provides little authority and few mechanisms to support execution of these duties. Complicating this situation are various interpretations among the Federal agencies and within the earthquake constituencies about what the lead role encompasses. This was clearly recognized by the non-Federal committee in their report Commentary and Recommendations of the Expert Review Committee which recommended establishing a Federal Earthquake Oversight Commission. In this report, the Committee acknowledged the difficulties that would be faced by any single agency (not just FEMA) in carrying out the mandate of the legislation given the lack of authority and current budgetary and programmatic constraints. Their solution was an independent Commission with no operational role in the NEHRP.

Because we believe it is important to be responsive to the recommendations of the Expert Review Committee, FEMA, as detailed in the NEHRP Five Year Plan, will be undertaking a study to examine the feasibility of a Federal Earthquake Oversight Commission.

Establishing the Expert Review Committee, submission of the radically different NEHRP Five Year Plan which requires the agencies to detail activities and outcomes, timely submission of the Annual Report to Congress and completion of a survey report documenting the first ten years of the NEHRP are examples of FEMA's leadership accomplishments. In the past three years FEMA has taken a more aggressive role in leadership of the program. Consistent with this stance and the NEHRP Five Year Plan, FEMA has established as immediate leadership objectives the following:

(1) Work with the diverse elements of the earthquake community to develop a consensus on the priorities of the NEHRP by building on the consensus achieved by the Expert Review Committee. An Advisory Committee and a national earthquake policy workshop are possible forums to accomplish this.

(2) Work with the States to create a network to support and advance earthquake mitigation techniques at both the State and local level possibly through creation of an Association of State Earthquake Managers.

(3) Accelerate our efforts, especially in the East and Central U.S. to inform, educate and motivate the citizenry to actively participate in earthquake hazard reduction. We plan to continue using nationally well-known figures such as Big Bird so we can get the earthquake message across to people who would not necessarily be concerned.

(4) As mentioned earlier, provide greater opportunity for the private sector to become an integral part of the NEHRP. Several mechanisms are being explored including an ongoing Federal/Business partnership for earthquake research and a NEHRP Business Council.

Question: There is a pending bill, S. 629, that would transfer FEMA's lead agency responsibility to the U.S. Geological Survey. If this bill were to become law and FEMA's leadership role in earthquake were transferred to the Geological Survey, how would this affect your budget request?

Answer: Currently, FEMA does not receive a separate authorization or authorization for appropriations specifically for leadership activities. The funds authorized and appropriated to FEMA are intended for both programmatic and leadership activities. For FY 90, FEMA expects to spend approximately $285,000 on lead agency related activities. Should the lead agency role be transferred to USGS without a commensurate transfer of funds, the $285,000 would be reallocated to support one of the other critical programmatic areas under FEMA's earthquake program.

EARTHQUAKE INSURANCE

Question: Your budget justification mentions a study initiated in 1988 recommending loss reduction measures that could be incorporated into a National Earthquake Insurance Program.

What is the status of the study? Briefly outline the major recommendations made.

Answer: The study is scheduled for completion in March 1990 and is progressing on schedule. Task reports on earthquake risk analysis methods and on loss-reduction issues should be completed in July of this year. A working copy of a report identifying promising loss-reduction provisions being considered should be available shortly before a key workshop to be held on August 15 and 16, 1989. The workshop

will help assure that the proposed measures and strategy are technically sound, professionally supportable and acceptable to communities, the insurance industry and policy holders.

Major recommendations are to be made at completion of the study and will include feasible earthquake loss-reduction provisions, including safe land use and building practices, that can be incorporated into a national earthquake insurance or reinsurance program involving the Federal Government and\or the private insurance industry. The property loss-reduction measures to be recommended can be taken by State and local government, the private sector and homeowners for new, existing and critical buildings at a minimum.

HAZARD MITIGATION DEMONSTRATION PROJECT

Question: Also in your justification is mention of a demonstration project. Could you briefly describe what your plans are for this demonstration and what this will involve?

Answer: A case study report on the prototype multihazards mitigation planning project conducted by the State of Utah and Weber County for FEMA will be published in FY 1989. The case study report addresses the hazards of earthquake, dam safety, flooding, and landslides and will assist other governmental officials and the public in identification of specific hazard mitigation measures that can be taken and their social, economic and environmental effects.

FEMA plans to use this case study experience and initiate another multihazards mitigation planning demonstration project in cooperation with another State and local government that can be used to evaluate varying mitigation needs and approaches.

EARTHQUAKE EXERCISE

Question: You are planning an earthquake exercise for August in California. Who will be involved in this exercise? What role does FEMA have in this exercise?

Answer: Excercise RESPONSE 89 is scheduled for August 8-10, in Sacramento, California, based upon a 7.5 Richter earthquake along the Hayward Fault in the San Francisco Bay Area. RESPONSE 89 is a joint Federal-State exercise designed to test the policies and concepts in the Plan for Federal Response to a

Catastrophic Earthquake and the procedures in the draft Region IX interagency supplements to the plan.

FEMA is responsible for organizing and conducting the exercise. FEMA has developed the exercise plan and is developing the Master Scenario Events List which will drive exercise play. In addition, FEMA is conducting all player, evaluator and controller training, and is handling all the logistical arrangements of the exercise site, communications, etc.

There will be approximately 150-200 players, evaluators and controllers from FEMA and the other 24 agencies involved in the earthquake plan. In addition, a similar sized contingent of State, local and private sector participants will be involved.

A copy of the Exercise Plan for RESPONSE 89 is attached. This plan provides complete detailed information on the exercise.

RADIOLOGICAL EMERGENCY PREPAREDNESS

Question: Absent State and local participation, FEMA is required to develop emergency response plans for commercial nuclear power plants with utilities providing 100 percent reimbursement for the development of the plans. FEMA is requesting appropriation language that would create short-term borrowing authority from the Disaster Relief Fund of up to $10 million for the development of these funds. Why has FEMA proposed to borrow these funds from the Disaster Relief Fund rather than obtaining funds in advance from the affected utilities?

Answer: FEMA would apply this short term borrowing authority of up to 10 million dollars, in the event an effort were required under E.O. 12657, prior to the implementation of a regulation to seek reimbursement from a utility for such site-specific efforts. Borrowing, if required, prior to implementation of the regulation for site-specific reimbursement can best be facilitated through the Disaster Relief Fund.

Question: If the Federal government is willing to develop these plans, why would any State or local government perform this function on their own?

Answer: Development of State and local offsite radiological emergency preparedness plans is an inherent responsibility of State and local government. If State and local governments were to

abstain from the conscientious performance of this function, they would be abstaining from conduct of a vital State and local responsibility intended to protect the public health and welfare. It is not the intention of the Federal government to develop these plans except as may be required under the strictest interpretation of E.O. 12657, and even under these circumstances, it is envisioned that Federal participation in development of necessary plans would rarely, if ever, require that all or most of such plans be developed only by the Federal government, exclusive of State and local government involvement.

Question: What assurances would FEMA have that a utility would repay the cost?

Answer: Under the regulation now being developed within the authority of 31 USC 9701, in a procedural manner quite similar to the Nuclear Regulatory Commission (NRC) under 10 CFR 170, the utility will be required to make reimbursement in response to appropriate site-specific billings by FEMA for on-going REP activities as well as activities under E.O. 12657.

FEDERAL RESPONSE TO A NUCLEAR POWER EMERGENCY

Question: Radiological emergency preparedness is of concern to me. The State of Maryland is close to 2 nuclear power plants that have had difficulty -- 3 Mile Island and Peach Bottom. In the event of an accident the whole area, including Maryland, would have to be mobilized. Are you prepared to handle such a crisis?

Answer: FEMA in its role as the lead Federal agency responsible for coordinating State and local radiological emergency planning and preparedness activities has developed guidance with the Nuclear Regulatory Commission to be used by States and local governments in planning for and responding to accidents at commercial nuclear power plants. A primary emphasis of FEMA's in its Radiological Emergency Preparedness (REP) Program is assisting State and local governments in improving their response capabilities. State and local governments around nuclear power plants develop radiological emergency response plans which are to be used to protect the public in the event of an accident at the commercial nuclear power plants. FEMA evaluates these plans, makes determinations as to their adequacy, and evaluates exercises of the plans to

determine whether they can be implemented. A great deal of effort at the State and local level goes into developing and exercising the plans so that the public health and safety can be protected in the event of an emergency situation at the commercial nuclear power plants.

Radiological emergency preparedness plans for the Peach Bottom and Three Mile Island Nuclear Power Plants, as well as the Calvert Cliffs Nuclear Power Plant located in Maryland, have been developed by the appropriate State and local authorities and have been exercised at least five times. Based on these exercises, it has been determined that the offsite preparedness at these sites is adequate to provide reasonable assurance that appropriate measures can be taken to protect the health and safety of the public in the event of an accident at any of these sites.

The Peach Bottom Nuclear Power Plant exercised on September 12, 1988, with the State of Maryland and Hartford and Cecil Counties; and with the Commonwealth of Pennsylvania and Lancaster, York, and Chester Counties.

Three Mile Island exercised on October 22, 1987, with the Commonwealth of Pennsylvania and Dauphin, Lancaster, York, Cumberland, and Lebanon Counties. The next scheduled exercise is October 18, 1989.

The latest radiological emergency preparedness exercise conducted at Calvert Cliffs in conjunction with the State of Maryland and Dorchester, Calvert and St. Mary's Counties was conducted on November 17, 1987. The next scheduled exercise is September 19, 1989. Calvert Cliffs has a FEMA 44 CFR 350 approval on plans and preparedness granted on August 8, 1985.

Radiological emergency preparedness planning is carried out to enhance State and local governmental capabilities to respond initially to any accident at the commercial nuclear power plants. Should it be necessary in the event of an accident, Federal assistance can be provided through the Federal Radiological Emergency Response Plan (FRERP). The viability of the Plan was established through exercise of the St. Lucie, Florida, Nuclear Power Station in March 1984. A second Federal Field Exercise of this Plan was conducted at Zion Illinois in June 1987.

Question: There has been much concern about the

lack of safety at the Department of Energy's nuclear facilities. Do you think that FEMA should be more involved in off-site preparedness at these facilities? If not, why not? And If so, wnat should be done to ensure greater safety? (EM-86)

Answer: FEMA works with DOE on an ad hoc basis in the development and implementation of off-site preparedness around DOE nuclear facilities; however, FEMA stands ready to provide assistance to DOE with: (1) the development of radiological emergency planning and preparedness guidance, (2) the review and evaluation of emergency plans, (3) the observation and evaluation of exercises to test the adequacy of plans and preparedness, (4) and to provide additional FEMA assistance to State and local governments as required and requested.

FEMA coordinates with other Federal Agencies in planning for a Federal response to offsite releases through the Federal Radiological Emergency Response Plan (FRERP).

Examples of FEMA and DOE cooperative efforts include:

(1) FEMA Region IV's observation of DOE's Savannah River Exercise, CY-1987.

(2) FEMA Region IV's planned participation with the State of South Carolina in the DOE Savannah River Exercise scheduled for August 1989.

(3) FEMA Region VIII's participation with the State of Colorado, DOE and other Federal Agencies in the Colorado/DOE "Rocky Flats-88" Exercise, September 1988.

(4) FEMA Region X's continuing participation with DOE's Richland, WA facility (Hanford), including sharing evacuation modeling information.

(5) FEMA Region X's participation with DOD/DOE and Region X States in the Federal Radiological Emergency Response Plan (FRERP) Field Workshop, Bellevue, WA., October 1988.

(6) FEMA Region X's participation in the joint DOD/DOE "Sagebrush" Exercise, November 1987, Kettle Falls, WA.

ADDITIONAL INFORMATION

Under FEMA regulation 44 CFR 351, FEMA has responsibility for coordinating the provision of Federal technical assistance to State and local governments on offsite emergency planning and preparedness for all types of nuclear facilities, including contractor operated DOE nuclear facilities. While joint planning by DOE, DOD and FEMA was underway in 1981-1983 to provide guidance and technical assistance to State and local governments for offsite emergency planning and preparedness, DOE and DOD opted to work directly with State and local governments without formal contact and coordination with FEMA. FEMA is consulted only on an ad hoc basis.

NATIONAL EMERGENCY TRAINING CENTER

Question: We are concerned about the Fire Academy budget at the National Emergency Training Center (NETC) in Emmitsburg. For the FY 90 budget you have created a separate budget line for the NETC Site Administration. We are concerned that a larger proportion of funding for the training center is being provided by the Fire Academy. Exactly what proportion of funds contributed to the NETC site administration account were provided by the Fire Academy for FY 90? What proportion of the training at this center is fire related?

Answer: In the proposed consolidation of NETC Site Administration in 1990, the same resources and proportions appropriated in 1989 are requested; 56.1% of the Emergency Management Planning and Assistance funds, 76% of the salaries and expenses funds, and 68% of the workyears come from the National Fire Academy program of the Training and Fire Programs budget. In 1988, the National Fire Academy accounted for 66.9% of the on-campus students and 74.4% of the on-campus student days. However, it must be stated that there is not a direct relationship between the number of on-campus students and on-campus student days to the projects and programs funded by the NETC Site Administration account. We have recognized that there is an inequity in the fire funding provided for the NETC Site Administration account versus other FEMA funding sources, and we have been working to rectify the inequity.

FIRE FUNDING FOR TRAINING PERSONNEL

Question: What percentage of salaries and expenses for the NETC site personnel and the Office of Training headquarters staff in Washington, D.C., are covered by Fire Academy appropriated funds?

Answer: The NETC Site Administration line item in the budget request funds not only NETC site personnel, but personnel in the Office of the Director of the Office of Training, the Program Development and Evaluation Division, and the Educational Technology Division. The Office of Training and the Program Development and Evaluation Division are located in Washington, D.C.; of the salaries expended for those 5 positions 64% are paid from Fire appropriated funds.

SITE ADMINISTRATION

Question: Who oversees the site administration account at the NETC?

Answer: There are four different organizational entities which utilize resources from the NETC Site Administration program element. They are the Office of the Director of Training, the Operations and Support Division, the Program Development and Evaluation Division, and the Educational Technology Division. Each organization oversees its own resources.

Question: Why is the person responsible for site administration in Emmitsburg stationed in Washington, DC, rather than in Emmitsburg?

Answer: The individual primarily responsible for site administration is the Chief of the Operations and Support Division who is duty stationed in Emmitsburg.

FUNDING FOR TRAINING

Question: In the area of Civil Defense, all areas have been increased except for training and education. You have requested only $9.9 million, $1.7 million less than last year's appropriation. Is this reduction due to the consolidation of NETC Administration costs in a new budget item?

Answer: The reduction is due to a consolidation of NETC Site Administration resources into one program and program element.

Question: In last year's hearings, General Becton, we were told that the National Security Decision (NSDD) 259 stressed the development of civil defense systems that, due to scarce resources, could be used both for civil defense and in peacetime emergencies.

This dual usage of these systems is again described in FEMA's 1990 budget request. Are these civil defense systems fully developed and currently in place?

Answer: The state of development of civil defense systems varies between States and between local governments, depending upon the willingness of the government to participate fully in civil defense assistance programs and in their willingness to build attack-related capabilities. Most State and local governments have civil defense systems which are adequate to deal with natural and technological hazards, but not attack-related requirements.

Data collected by FEMA through the Hazard Identification/Capability Assessment system on State capabilities for dealing with peacetime and attack-related disasters is shown below. National indices indicate the mean and median levels of preparation by the States in four functional areas for both peacetime and attack- related disasters (a perfect index of preparedness would be 100.0).

Preparedness Functional Area	Mean/Median Capability Indices Peacetime Capability	Attack-Related Capability
Emergency Organization, Planning & Management	66.4/66.3	57.6/57.2
Direction, Control & Warning	65.2/64.7	58.1/59.1
Population Protection	83.5/91.9	78.5/80.0
Contamination Management & Control	70.4/73.7	62.5/67.4

It can be seen that attack-related preparedness is lower than that for peacetime disaster preparedness in every functional area. Further, these indices were prepared from the individual assessments made by the States. Using the ongoing funding for Personnel, Equipment and Planning provided by the Civil Defense budget, FEMA and the

State and local governments are constantly working to improve these capabilities for both peacetime and attack emergencies.

Question: If so, to what extent are these civil defense systems used in disasters and emergencies?

Answer: In almost every peacetime emergency situation, some portion of the capability of the civil defense system available to a State is used. The extent of capabilities brought into play depends, generally, upon the magnitude of the emergency. Some emergencies, for example, may not require the activation of the emergency operating center but may require extensive use of emergency communications, while in larger emergencies the full capabilities of the government may be brought to bear.

Question: Could you give me some examples of natural disasters or emergencies in which civil defense systems were used in the past year?

Answer: Data supplied by the States to FEMA through the Hazard Identification/Capability Assessment system from 1987 to date (May 1989) shows that State civil defense systems (or portions thereof) actively participated in 741 peacetime emergencies during that time period. The following is a listing of the type and number of these emergencies: civil disorder (1); dam failure (3); earthquake (12); fixed nuclear facility (7); flood or flash flood (150); hazardous materials, stationary (107); hazardous material, transportation (95); hurricane or tropical storm (26); landslide (1); tornado (37); tsunami (10); volcano (1); wildfire (45); winter storm (116); and all other (130).

Evacuations of citizens from areas of danger perhaps are illustrative of the use of civil defense capabilities since evacuation operations involve an extensive use of capabilities (planning,emergency communications, coordination between emergency services, etc.). In 382, or about 52 percent, of the emergencies to which State and local governments responded, evacuation of the populace from a hazardous area was required.

During the years 1984 through 1988, some 4.3 million persons were evacuated from areas of danger. While some evacuations would not require extensive

use of civil defense capabilities (e.g., evacuations due to bomb threats), other operations such as evacuation of coastal regions threatened by hurricanes during the 1984-1985 time period involved populations numbering in the millions. A breakdown of total populations involved in evacuations follows:

- o 1984-1985: 3,609,105 evacuees
- o 1986 : 205,470 evacuees
- o 1987 : 260,695 evacuees
- o 1988 : 243,695 evacuees

The 1984-1985 time period, as noted, involved multiple evacuations of millions of Gulf Coast residents from areas threatened by hurricane landfalls.

POPULATION PROTECTION/FAMILY PROTECTION

Question: In the category of population protection, last year - for the first time - you received funding for family protection. The program provides printed materials on civil defense, family preparedness and so forth to encourage voluntary participation in civil defense preparedness exercises. In last year's hearings, General Becton, we were told that the program was only in the formative stages because the program had not received funding. Now that you have been able to implement this effort, how effective do you think this program has been?

Answer: Let me first note that the purpose of this program is broader than the question indicates. We seek to improve emergency preparedness at the family and neighborhood level. To do this we have set two objectives:

(1) Increase citizen and volunteer organization participation in community emergency preparedness programs.

(2) Broaden public awareness of threats and hazards, and of protective or survival actions that can counter these hazards.

In the several months we have had funding for this program, we have made an excellent start toward meeting these objectives even though we have no full-time personnel assigned to it. We are putting in place the means for State and local government,

as well as FEMA regional staffs, to get the emergency preparedness message deeper into the public domain.

Ideally, every political jurisdiction in the country should have a civil defense program and that program should include active outreach into the community to include volunteer individuals and existing volunteer organizations in a community-based emergency preparedness program. Ideally, every citizen in the country should have available to him or her information on threats and hazards and what he or she can do about those threats or hazards. Implicit in the above is that if our communities are engaged and our citizens are armed with risk-awareness and self-help information, then the resilience of our country is enhanced in the face of a national security emergency, lives will be saved that would otherwise be lost, injuries will be reduced, our ability to administer to the needs of survivors individually and collectively is enhanced, and the ability of our Nation to survive and get back on its feet is enhanced. Such involvement and readiness by citizens and volunteer organizations will be beneficial in peacetime as well as national security emergencies.

The first year's goal in this program (FY89) has been to produce a Civil Defense Speakers Kit and related materials. This kit is primarily for the use of local and State civil defense personnel and secondarily for the use of volunteer organization members. The presentations in the speaker's kit seek to increase citizen understanding of civil defense, increase their awareness of hazards and risks, and motivate them to undertake peacetime emergency preparedness actions (such as the development of a family emergency preparedness plan). Enough resources for this effort have been devoted to procure and distribute 3500 speaker's kits--enough to reach the majority of local participating jurisdictions.

In addition to the Civil Defense Speakers Kit, we have under development and near completion a new citizen's pamphlet on the importance of emergency preparedness entitled "Are You Prepared?" We hope to start the distribution of this pamphlet to State and local civil defense personnel this summer.

While hindered by the lack of FTE to devote to the family protection effort, much good has already been accomplished in the development of the Civil Defense Speakers Kit (which has met with an

enthusiastic reception) and publications like the citizen's pamphlet "Are You Prepared?" In addition, we plan, in the near future, to develop a "Family Food Emergency Preparedness" pamphlet and to continue with our civil defense family protection, self-help and volunteer conferences.

Our approach, lacking the full-time dedicated staff to work with State and local civil defense personnel and national volunteer organizations in a concerted way, is to work through State, local and FEMA regional staffs to reach volunteer organizations and individuals at that level. We are optimistic and enthusiastic concerning the good we believe we can accomplish with this program.

Question: What other types of activities does FEMA have planned to encourage communities to make use of volunteers? Approximately how many volunteers and community organizations have taken part in the program?

Answer: The centerpiece of FEMA's effort to encourage communities to make use of volunteers is a training course for local and State civil defense personnel entitled "Developing Volunteer Resources." This course seeks to aid such personnel in identifying areas in which volunteers could be of assistance and then provides information on locating, recruiting, placing, supporting, and maintaining volunteers in their emergency preparedness programs.

In seeking to investigate how FEMA might be able to help in this area, we have sponsored three conferences at our training center in Emmitsburg, Maryland to discuss volunteer issues with State and local civil defense personnel and with representatives of national volunteer, social, service, veterans and religious organizations--over fifty attendees participated in the most recent conference in January of 1989. Some of the organizations represented at these conferences, for example would be:

American Red Cross
Volunteer Organization Active in Disaster
Neighborhood Watch (National Sheriffs Association)
American Association of Retired Persons
Southern Baptist Convention
Veterans of Foreign Wars
American Legion
American Legion Auxiliary

Reserve Officers Association
American Civil Engineers Association
American Civil Defense Association
Doctors for Disaster Preparedness
International Rescue and Emergency Care Association
National Association of Search and Rescue
National Coordinating Council on Emergency Management
Church of Jesus Christ of Latter Day Saints
National Volunteer Fire Council

While lack of FTE to devote to a volunteer program limits our ability to work with and carry through on recommendations made by these and other volunteer organizations, we will continue to investigate the potential for a volunteer program should FTE become available. In the meantime, we will make the utmost effort that limited time will allow to work with the FEMA Regions and with State and local civil defense personnel to promote and encourage greater contact with and use of volunteers and volunteer organizations in civil defense, all-hazards, emergency preparedness programs. One lesson is clear from past experience--a major natural or technological disaster will overpower the ability of government resources alone to deal quickly and effectively with the myriad of problems facing the jurisdiction. Volunteers and volunteer organizations must be utilized, and effective utilization of volunteers means working with them prior to an emergency. In a national security emergency, volunteer help would be absolutely essential.

FUNDING FOR WASHINGTON AND OREGON

Question. During the past year or two, FEMA has had difficulty negotiating with the States of Oregon and Washington concerning their participation in civil defense exercises. You made it clear that if these States refused to take part in attack preparedness their funds would be withdrawn. Could you tell me where these two States currently stand and the status of their civil defense funding?

Answer. After some initial problems in developing work objectives in conformance with nuclear attack preparedness goals, the State of Oregon corrected its application and was awarded civil defense funding by bilateral agreement on October 25, 1988. The amount currently obligated for Oregon is $749,029 with another $424,077 planned to be obligated. Washington, on the other hand, has

received no funding for civil defense programs. Funds for the State of Washington (of which $1,076,272 are Emergency Management Assistance funds) are being held in escrow until a hearing is completed to determine whether or not the State is entitled to such funding while it is not compliant with nuclear attack preparedness objectives as required by the Federal Civil Defense Act of 1950, as amended.

STATE EMERGENCY OPERATING CENTERS

Question: You have a program to assist State and local governments develop emergency capabilities including the State Emergency Operating Centers. General Becton, in last year's testimony we were told that 43 States did not meet all of the requirements for emergency operating centers (EOC). How many States now meet all requirements for emergency operating centers?

Answer: The status of State EOC's that meet FEMA's standards has not changed since the last hearing. Let me hasten to add, that last year's testimony highlighted FEMA's emphasis on Survivable Crisis Management (SCM) capability development, which limited our activities to concentrating on State-level prototype projects only. In this regard, we initiated three prototype design projects in Alabama, Louisiana and New Jersey. These three projects consumed the available funding for this program in FY 89.

Question: When do you anticipate that all States will come into compliance with EOC requirements and what is FEMA doing to encourage compliance with these requirements?

Answer: The FEMA standards we have alluded to represent the minimum operational requirements that an EOC must meet in order to be eligible for FEMA funding assistance. Although these standards are considered to be necessary for adequate EOC operations, they do not constitute a federal requirement on EOC's that are not developed with federal funding assistance. Therefore, we can only predict that as our SCM State level network is developed, it will cause all State-level EOC's to correct any deficiencies presently existing. The timing of this major national objective is bound to the availability of Federal and State matching funds in future budgets.

DAM SAFETY

Question: I understand that the Dam Safety program is severely underfunded. FEMA has responsibility for coordinating a program to correct unsafe dams. According to the budget justification, approximately 10,000 dams were classified as high hazard and 150 required emergency action. Yet in your budget, you are only requesting $561,000 and 3 workyears. Why has the funding for this program remained low when there is evidence that a hazardous situation exists?

Answer: FEMA supports the Administration's goals of budget reduction and, as a proponent of these goals, we have chosen not to ask for increases for the Dam Safety program. This is not to say, however, that the Nation's dam safety needs are not being addressed.

FEMA's Dam Safety program emphasizes the need to help States institute adequate dam safety programs because 95% of the Nation's dams are non-Federally owned and their safety is the responsibility of the State. As a result of FEMA's Dam Safety program, the implementation of which stresses prudent economies of effort within current and requested funding levels and innovative strategies, the number of States with adequate dam safety programs is increasing. This trend is expected to continue as FEMA aggressively pursues its dam safety responsibilities.

REGIONAL STAFF FOR NATURAL HAZARDS

Question: I understand that you have a high turnover rate at the regional office in Earthquake and Other Natural Hazards Program. Why is this so and what have we done to alleviate this problem?

Answer: In FY 1987, FEMA initiated a long-term project to align staff with budget activities and programs. This resulted in the transfer of some staff and the allocation of unfilled positions, in the absence of staff, to certain budget activities and programs. Since that time, FEMA has worked to fill the regional positions dedicated in the budget to Earthquakes and Other Hazards. Because of the technical nature of these programs, FEMA instituted a technical training program for this staff encompassing all the hazards disciplines. This

training and increased identity for Regional staff has resulted in a stabilization of Regional staff in these program areas.

REDUCTIONS IN FEDERAL PREPAREDNESS

Question: You have reduced your program funds in Federal Preparedness. Specifically, you are reducing "Other Services" by more than $25 million. What is included in this category and why is it being reduced so much?

Answer: The reductions to program funding in Federal Preparedness are directly attributable to the Government Preparedness program within the Federal Preparedness section of the budget. The particulars of that budget submission are discussed under a separately submitted budget package.

MEMBERSHIP ON THE NATIONAL SECURITY COUNCIL

Question: As the Agency with primary responsibility for emergency preparedness, including a support role in national security emergency preparedness planning and civil defense mobilization, why are you not a member of the National Security Council and do you believe FEMA should be a member?

Answer: The Director of the former Office of Emergency Preparedness (OEP) and the heads of its predecessor agencies were members of the National Security Council (NSC) from 1947, when it was established by the National Security Act of 1947. Reorganization plan No. 1 of 1973 abolished OEP and the role of its Director as a member of the NSC. Under the reorganization plan, the Federal Preparedness Agency (FPA) was established in the General Services Administration and was assigned some of the OEP functions. FEMA is the successor agency to FPA.

The stated reason for the 1973 reorganization was to reduce the size of the Executive Office of the President which would no longer be incumbered with the task of managing and administering programs which could be more effectively run by the several departments and agencies assigned emergency preparedness functions. It was concluded at the time, that the coordinating and supervisory role in the emergency field which OEP exercised was no longer needed, and that the consideration of these aspects of national security by the NSC could be accommodated organizationally by NSC's remaining

structure without the need for statutory membership on the Council itself for the FPA or the other agencies which assumed OEP functions.

Although, under Reorganization Plan No.3 of 1978, emergency preparedness planning and civil defense mobilization functions were again focused under one agency, it is not believed that the Director of that agency (FEMA) should be a statutory member of the NSC. However, we do believe that the Director of FEMA should be a regular advisor to the NSC to bring its perspective to national security deliberations. That perspective includes an understanding of the preparedness and the will of the Federal civil agencies as well as the objectives of State and local governments and broad segments of the American public.

Under Executive Order 12656 of November 18, 1989, the Director, FEMA, is made an advisor to the NSC for preparedness matters. Although this does not include the Director in the total NSC decision making process, the present NSC structure does provide civil preparedness input in NSC deliberations where appropriate.

NATO EXERCISE

Question: In late February and early March, FEMA participated in an exercise sponsored by NATO. What was the nature of the exercise and why was it undertaken?

Answer: WINTEX-CIMEX 89 was a NATO Command Post Exercise (CPX). Winter Exercise-Civil Military Exercise (WINTEX-CIMEX) is a biennial series of exercises designed to test the plans, procedures, systems and consultation process in a time of crisis or war. FEMA's support is provided in response to functional responsibilities mandated by Executive Order 12656, Part 17, par. 12 which states that the Director of FEMA is to "assist the Secretary of State in coordinating the formulation and implementation of United States policy for NATO and other allied civil emergency planning..."

JOINT US/CANADIAN EXERCISE

Question: You are sponsoring a terrorism exercise in the near future with Canada. What do you hope to learn in this particular exercise?

Answer: FEMA is participating in Exercise TRANSBORD III, a joint U.S./Canadian exercise to

test readiness plans, policies, procedures and decisionmaking processes of both countries to jointly respond to a terrorist incident. We expect to learn if these readiness plans, policies, procedures and decisionmaking processes are adequate or if they need to be modified. We also expect to learn how to work better together at all levels of Government in the U.S. and with Canada to be able to respond to and recover from a terrorist incident as portrayed in this exercise.

MOBILIZATION EXERCISE

Question: This fall there is an exercise planned in conjunction with the Joint Chiefs of Staff. Could you explain (as much as you are allowed to discuss) what you plan to accomplish in this exercise?

Answer: This fall FEMA will sponsor a mobilization exercise entitled REX-90 ALPHA to exercise and evaluate Federal civil plans, policies, procedures, and systems to support the military and essential civil requirements in a time of military mobilization.

POLICY IN FORCE ESTIMATES

Question: According to the budget justification, the Federal Insurance Administration did not increase its policyholder base as anticipated. FEMA had expected an increase of over 100,000 policies in force by the end of FY 88 to bring the total to approximately 2,184,000. The actual number for FY 88 is 2,101,657 policyholders - an increase of 22,000. Why were your estimates so off base? What efforts is the Federal Insurance Administration making to increase the policyholder base?

Answer: The Federal Insurance Administration, a part of the Federal Emergency Management Agency, is responsible for the administration of both the National Flood Insurance Program and the Federal Crime Insurance Program.

In FY 1988, the private-sector insurance companies that are participating in the Write Your Own program generated about 300,000 new policies. Thus, our projections of a 100,000-policy increase were on the conservative side. Unfortunately, the number of existing policies that were not renewed during this period was almost as large as the number

of new policies, leaving the 22,000 overall increase. We attribute the large number of non-renewals to two factors. First, the drought experienced in many parts of the country over a protracted period of time has lessened peoples' perception of risk of flooding.

Second is the volatility of the mortgage market in recent times, with most mortgages moving into the secondary market almost as soon as they are signed. About 60 percent of the flood insurance coverage is in place because of the mandatory purchase requirements of the Flood Disaster Protection Act (as amended). However, the volume of mortgage paper entering the secondary market makes it difficult for the current holder to determine whether flood insurance was required by the original lender or whether it is still in place. Our records show only the name of the issuing lender, and we have no mechanism to notify second, third, forth, or fifth holders that flood insurance was required as a condition of the mortgage and that it is not being maintained.

We have not relied solely on a priori reasoning to determine why we have such high rates of non-renewals. Recently, we conducted a survey of policyholders who did not renew their coverage, asking them why. The most frequent answer was that they no longer owned the building. We feel our methodology was somewhat flawed, in that we sent the questionnaire out too close to the policy expiration date, and many respondents advised us they had since renewed. Other reasons given for non-renewal were cost, no longer perceived themselves at risk, the lender no longer requires the coverage, or the property is no longer in a special flood hazard area.

We feel the new, low cost preferred risk policy may be the vehicle to stanch the flow of non-renewals, since policyholders who do not renew are often those located outside a special flood hazard area, and this new coverage, which became available January 1, 1989, will provide set amounts of coverage for a single flat fee that is about one-third the premium for conventionally rated coverage.

We will also continue to notify the lender of record when a non-renewed policy was required as a condition of the mortgage, but, as noted earlier, the volatility of the mortgage market may leave this notification in the wrong hands.

Question: Last year, you gave a lengthy explanation concerning the new efforts being made to project the number of policies in force. The Federal Insurance Administration was confident that the growth rate would be 5%. However, the growth from FY 87 to FY 88 was only a little over 1%. Do you think you will reach that 5% target for FY 89? If not, why not? If so, what kind of efforts helped to achieve this goal?

Answer: Absent significant flood incidents and a continuation of the current state of the mortgage market, we do not anticipate reaching a 5 percent growth in the policy base in FY 1989. Rather, we predict the growth will be about 2 to 3 percent for this fiscal year and the next. The growth rate in new policies far exceeds 5 percent of the total policy base. However, that growth was offset by a like number of non-renewals of existing policies. We will continue with efforts to stop the drain on the policy base.

Since about 80 percent of the flood insurance in force is written by the private-sector insurance companies participating in the Write Your Own program, it is logical that any new coverage will be generated by the companies. We have emphasized to the Write Your Own companies the need for greater market penetration and believe the companies will place increased importance on selling this coverage rather than simply making it available. To that end, FIA has created a new Write Your Own Marketing Committee, chaired by the president of Bankers Insurance with members representing a broad and diverse spectrum of the Write Your Own companies. The purpose of this committee is to provide a focal point and a forum for companies to share effective marketing ideas and methodologies.

The NFIP will continue its own marketing efforts with such efforts as seasonal awareness campaigns, hands on training at seminars for agents and lenders, promotion of the new preferred risk and condominium master policies, interaction with the federal regulatory agencies, articles for various publications designed to reach one or more of the NFIP's constituencies, development and publication of technical manuals, technical assistance in the production of videotapes on construction considerations in various flood hazard areas, and the like.

MANDATORY PURCHASE REQUIREMENTS

Question: You have been urged to find ways to encourage cooperation of lenders in enforcing the purchase and retention of flood insurance policies. What is FEMA doing to ensure that lenders enforce these federal requirements? What is the Flood Insurance Administration doing to assure that insurance agents understand flood insurance?

Answer: FEMA provides a continuing educational program to make lenders more aware of the mandatory flood insurance purchase requirement and the availability of flood insurance through the NFIP. During 1988, 5,213 lenders attended 193 training workshops on flood insurance purchase requirements. In October 1988, FEMA provided the American Bankers Association with an article explaining the insurance purchase requirement which the Association published in its October-Autumn 1988 edition of the magazine ABA Bank Compliance, and re-prints have been widely circulated.

FEMA has increased its efforts to assist the Federal financial regulatory agencies (instrumentalities) in their responsibility to enforce their rules which mandate that lenders under their jurisdiction require borrowers to purchase flood insurance to protect improved real property in communities that are participating in the NFIP. Several FEMA regional offices are assisting the Federal instrumentalities in the training of their examiners and this activity will be stepped up during the current year.

During 1988, FEMA monitored requests received for flood disaster assistance in the New England region to detect properties which are subject to a mortgage and which should have been insured against flooding and provided the Federal instrumentalities with the resulting information. Such activity will be expanded to other regions when disasters occur. To assist both the Federal instrumentalities and the lenders, FEMA has been drafting guidelines that provide extensive explanatory material concerning the flood insurance purchase requirements. Interim drafts have been regularly submitted to the Federal instrumentalities for their review and comments. The final draft will fully reflect their contributions and will play a significant part in improving lender awareness and regulatory enforcement.

FEMA also provides a continuing education program for insurance agents and conducted 303 agents' workshop attended by 7,178 agents during 1988. Through its participation in the quarterly meetings of the Flood Insurance Producers National Committee, FEMA is able to maintain a closer working relationship with insurance agents to enhance agents' understanding of the NFIP. In addition, through its new Agents' Manual, which had the benefit of review by the Flood Insurance Producers National Committee, FEMA is providing agents with more explicit instructions and information.

DISASTER RELIEF

Question: General Becton, you are requesting $270 million in the 1990 budget to replenish the disaster relief fund. This is a substantial increase -- $170 million above the 1989 appropriation.

What assumptions did you use in coming up with this figure?

Answer: The funding level is ultimately a function of the number, frequency, and magnitude of disasters occurring during any given year. Budgets are based on historical averages. For the period of 1981 (when current cost sharing approaches were first applied to Public Assistance) to 1988, average annual obligations from the Disaster Fund were approximately $270 million.

In developing the $270 million figure for FY 1990, we assumed the following: (1) an unobligated carry over from 1989 to 1990 of $21 million dollars; and (2) a recovery of prior year obligations of $50 million. These amounts together with the $270 million appropriation from Congress would allow FEMA to adequately address new disaster activities as well as projects from disasters declared in prior years.

TERMINATION OF SBA DISASTER LOANS

Question: Currently there is a legislative proposal to terminate the SBA disaster loan program -the only federal disaster recovery program for businesses. The termination of this program would result in FEMA receiving an additional $50 million in disaster funds.

Answer: The scope of the Individual and Family Grant (IFG) program was not intended to be nearly as

broad as that of the SBA loan program. The IFG program is prohibited by legislation from assisting businesses, which can currently borrow up to $500,000 of verified losses from SBA. The SBA loans are a "replace losses" program while the IFG Program is a "meets need" program. The maximum a family unit may obtain in IFG assistance is $10,000 for real and personal property losses combined. The SBA loan program for individuals and families limits real property losses at $100,000 and personal property losses at $20,000.

The $50 million figure is based on outdated data. The current estimate of additional costs to the IFG program should the SBA loan program be abolished is $160 million. This amount is based on the new maximum IFG award of $10,000 and recent SBA statistics applying to home and personal property loans.

Question: How would these funds be utilized - would they be earmarked for disaster recovery of businesses?

Answer: The Robert T. Stafford Disaster Relief and Emergency Assistance Act clearly prohibits the IFG program from assisting businesses. It should also be noted that Disaster Unemployment Assistance claims could be affected if loans were not available to employers affected by disasters.

The additional funds would provide assistance to individuals and families. If low interest loans from SBA were not obtainable in Presidentially declared disasters, FEMA believes that the number of applicants qualifying for the maximum IFG award ($10,000) would increase significantly. However, FEMA further concludes that victims' needs would not be adequately met through the existing grant program.

Question: Would this transfer result in an increase in staff years for FEMA?

Answer: The IFG program is administered primarily by State agencies. Clearly this significant an increase in grant award activity would increase State staff commitments. The financial impact on the States should also be considered. States provide 25 per cent of the cost of each grant. This could mean an increase of up to $50 million in State budgets annually.

The cost of the FEMA contract inspection firm,

which conducts the verifications of losses and damages for IFG applications, would be increased annually by approximately $800,000. FEMA staff years would also be increased as computer support, in addition to verification support, is provided to States in processing the IFG cases.

BORROWING FROM DISASTER FOR RESPONSE PLANNING

Question: If FEMA does not receive permission to borrow up to $10 million to develop response plans for commercial nuclear power plants, can the $270 million request be reduced by that amount without affecting FEMA's administration of federal disaster relief?

Answer: The budget request for $270 million for the Disaster Assistance Program was not predicated on the need to borrow $10 million from the Disaster Relief Fund to develop response plans for commercial nuclear power plants. The budget resources for the Disaster Relief Fund in a given year depend on the frequency, magnitude, and number of disasters. FEMA based its FY 1990 request for the Disaster Relief Fund on historical averages of the fund. From the years 1981 (when current cost sharing approaches were first applied to Public Assistance Programs) through 1988, FEMA had average yearly obligations of $270 million for disaster assistance. Based on these historical averages, FEMA feels that the Disaster Assistance Program will need $270 million, the entire amount requested, in FY 1990 to assist victims of natural disasters and emergencies. The $270 million is considered necessary to address new disaster activity as well as projects from disasters declared in prior years. Funds borrowed would be replenished.

REDUCTIONS IN FIRE PREVENTION AND ARSON CONTROL

Question: You are proposing that the U. S. Fire Administration's Fire Prevention and Arson Control program be reduced. It is maintained that this program is more appropriately handled at the State and local level -- do you have evidence that shows that State and local governments have the resources to handle the program?

Answer: When the Fire Administration was reorganized after zero funding in FY 1983, all of the then existing programs were analyzed and only those programs that, because of scope or efficiency of size, could be best handled on the Federal level were recommended for funding. This approach remains

in effect to this date. None of the programs that will be eliminated by the reduction from three million to five hundred thousand dollars will be assumed by the State and/or local government.

We have not had conversations with State or local fire service leaders that would indicate an ability on their part to fund programs such as residential sprinkler technology research, national fire public awareness programs, or such programs that go beyond the scope of the local jurisdiction. A limited number of programs such as the Arson Information Management Systems that have been installed in various jurisdictions will continue to be supported by local government.

The Fire Administration acts as a central point of focus that brings together all levels of government and, in many cases, private sector as well. It would be impossible for a local or State jurisdiction to assume this role.

ROLE OF FIRE ADMINISTRATION IN FIRE ACADEMY CURRICULUM

Question: What role does the U. S. Fire Administration have in developing the Fire Academy curriculum?

Answer: The curriculum of the National Fire Academy is derived from a number of sources. The Federal Fire Prevention and Control Act, however, gives to the Superintendent of the Academy the authority "to develop and revise curricula..."

At this time, the USFA has little formal input into the Academy's curriculum although staff interaction exists and is encouraged, and products from the USFA are utilized extensively in Academy courses. In addition, feedback through the NFA training activity assisted the USFA in modifying, redirecting and initiating fire policy and program direction. Input to the Academy's curriculum from the USFA should be encouraged; FEMA will explore the establishment of a more formalized relationship between the two organizations.

PHASE OUT OF STIPENDS

Question: FEMA is proposing a cost sharing plan for training of students at NETC that would eventually phase out the stipend program. Volunteer organizations and State and local governments would

be required to bear the cost of the training. What effect would this plan have on volunteer organizations and State and local governments in their ability to provide training to their employees? How much would you estimate this would reduce enrollment? Do you foresee a change in demographics?

Answer: Yes, we believe it will have an impact on volunteer organizations and State and local governments in the ability to send students to the NETC for training. Since this has never happened before, we can not accurately predict the impact on enrollments. Some have estimated that enrollments could be reduced up to 50% or more.

Volunteers already "pay" to attend courses at NETC in terms of lost wages/vacation time. If transportation stipends were eliminated, it is unlikely that many volunteers could afford to attend.

As indicated before, we believe the demographic and geographic distribution of the resident student audience will undoubtedly be impacted. As one student put it, "This will become a facility for the elite," i.e., large affluent communities. Travel costs may preclude many students from the west coast, mid-west and communities without access to a major airport (and competitive fares) from attending the resident facility. It will also limit students from smaller or less affluent communities who, although perhaps most in need of training, are least able to afford it.

TRAINING APPLICATIONS

Question: What is the number of applicants for on-campus training and the number of available spaces?

Answer: In 1988, the Student Services Branch received and processed over 32,000 separate applications for the National Fire Academy and the Emergency Management Institute. There were 12,300 on-campus students for this same period.

DISTRIBUTION OF COSTS

Question: How are costs distributed among EMI, NFA, USFA, and others?

Answer: For 1990, funding for EMI, NFA, USFA, and Site Administration are requested separately.

The funding for EMI comes from the Training and Education program under Civil Defense and the Emergency Management Institute program under Training and Fire Programs; the funding for NFA comes from the National Fire Academy program under Training and Fire Programs; and the funding for USFA comes from the U. S. Fire Administration program under Training and Fire Programs. Within the Training and Education, Emergency Management Institute, National Fire Academy, and U. S. Fire Administration budget programs, there is currently a specific program element under which the resources for NETC Site Administration are identified. The funding requested in the consolidated Site Administration program for 1990 is based on previous funding levels.

Organizations outside the Office of Training are permitted to use the facilities of the National Emergency Training Center on a space-available basis. Organizations outside the Federal Emergency Management Agency must pay for their lodging, use of the facilities, and a nominal charge for administrative overhead. Special groups pay contractors directly for support services provided. The funds collected by the government are remitted to the general receipts of the U. S. Treasury. Food service is a self-supporting activity and everyone using this service must pay.

USE OF NETC BY OTHER GROUPS

Question: Do fire program funds support the use of NETC by other groups?

Answer: Currently, funds for the operation of NETC come from four different budget program areas, two of which are fire programs. However, for FY 1990, funds for site administration have been consolidated into one budget line. In the past, many outside groups have used the NETC facilities. To clarify the priority for use of the facility, an Agency Instruction was issued on January 12, 1988. This Instruction clearly states that NETC facilities are made available, on a space available basis, to outside groups conducting activities closely related to and in direct support of the missions of the Emergency Management Institute, the National Fire Academy or the U. S. Fire Administration. Since the fire program provides a portion of the funds for the operation of the site and the facilities are made available to selected outside groups on a space available basis, fire funds could be considered to be used to support the use of NETC by other groups.

In order to correct possible inequities in the current operation, outside groups are being required to pay for any expenses associated with their use of the facilities. Cost for services provided by NETC contractors such as moving services, special security, and commercial telephone service are paid directly to those contractors. Reimbursement for indirect costs for items such as lodging and use of the facilities is remitted to the general receipts of the U. S. Treasury.

OFFICE OF TRAINING

Question: Does the exclusion of some training from the Office of Training contradict the philosophy behind its establishment? (Training for Flood Insurance Administration, and classified training for the National Preparedness Directorate do not fall under the auspices of the Office of Training)

Answer: The Office of Training is responsible for the coordination, oversight, and evaluation of all Agency training, without exception. The Office of Training works with all FEMA program offices in conducting the training needs assessment; assisting the program offices in the design, development, and conduct of training for which the program offices retain responsibility; and in conducting evaluation of training effectiveness against the programmatic objectives. We have transferred one position from the Federal Insurance Administration and three positions from the National Preparedness Directorate to the Office of Training to provide resources to help accomplish these tasks. Additional support for these and other program offices by the Office of Training will be re-evaluated annually during the program and budget reviews.

EQUAL OPPORTUNITY COMPLAINTS

Question: I understand that the number of equal opportunity complaints has increased over the past year. Could you tell me how many complaints of discrimination you have had over the past three years? How many of these complaints have been resolved? What are you doing to reduce the number of complaints?

Answer: The Office of Personnel and Equal Opportunity (PM-EO) has had a total of twenty-eight complaints over the past three years (FY-85-88.) Fifteen of these complaints were either resolved or withdrawn.

In an effort to educate FEMA managers and supervisors on Equal Employment Opportunity and Affirmative Action, the Office of Personnel and Equal Opportunity has sponsored 6 training sessions to date entitled "EEO for Managers and Supervisors: A Human Resource Management Approach." The sessions were conducted during Fiscal Years 1988 and 1989, by Joseph McClure, the noted Management Training Consultant from McClure-Lundberg Associates, Inc. Approximately 150 managers in Headquarters and Regional offices have been trained.

The role of the EEO Counselor contributes significantly to the effective processing of individual complaints of discrimination. Therefore, FEMA, requires that EEO counselors receive in-house training at least once a year. The EEO training is in addition to training that is received by counselors from the Office of Personnel Management.

FEMA has an Equal Opportunity Committee which consists of top level managers who are at the policy and decision making levels. The committee supports FEMA'S efforts to eliminate barriers to affirmative employment in accordance with FEMA's Affirmative Employment Plan and insures that mechanisms for responding to allegations of discrimination are operating appropriately.

INSPECTOR GENERAL

Question: For the past two years, you have indicated that there was a backlog of cases. What is your current backlog? Why has this problem continued and what is being done to alleviate it?

Answer:

1987: 207 cases
1988: 178 cases
1989: 203 cases

This backlog had been reduced to a low point of 156 at the end of FY 1988. However, due to the continuing shortage of investigative resources, lower priority investigative matters must be delayed until more complex matters of greater duration and impact have been completed. Since the Office of Inspector General resources remain substantially the same for the Fiscal Year 1990 appropriation, the backlog will persist at about the same level.

QUESTIONS SUBMITTED BY SENATOR KERREY

EMERGENCY FOOD AND SHELTER

Question: The request for Emergency Food and Shelter is the authorized amount, $134 million.

(a) How many people can be served with this amount?

(b) Are there any indications - or is there any evidence - to suggest what portion of need this amount will cover?

Answer: (a) Our largest previous allocation was for FY 1988 ($124 million) that provided more than 120 million additional meals and more than 42 million additional nights of shelter. Due to the accessibility of other McKinney Act programs (which now cover costs such as rehabilitation of shelters), these numbers can be expected to increase significantly.

(b) Informal surveys of recipient agencies in this program show unmet needs beyond the EFS allocations. It would appear that this appropriation has helped communities to address a majority of emergency needs, aiding in the move toward transitional programs.

Question: The funding request is for the fiscal year which begins October 1 and will, I assume, be spent to a large extent during next winter's months.

(a) How quickly do funds usually get to the local programs which actually operate the soup kitchens, food banks, shelters, etc.?

(b) Exactly how seasonal is the demand for this program/funding?

Answer: (a) In FY 1989 our Appropriation was made on August 16, 1988. When FEMA was notified by Treasury, the funds were transferred to the National Board on October 3, 1988. The National Board mailed out award announcements on October 8, 1988 and the first checks were dispatched to agencies on November 4, 1988. That time frame includes the local advertising of the availability of funds,

applications review and local decision-making with a return of the Board Plan to the National Board. An early Appropriation is integral to our process.

(b) There is an urgent demand for funds during the winter season which can be especially life threatening to vulnerable families and individuals. This is particularly true for shelter-related needs. However, supplemental funding for food programs is needed more during the summer when the donations to food banks are down and children are at home who would normally be fed one meal a day through the school lunch program.

Question: Is there any data to indicate whether the local agencies tend to serve the same people over a period of time or whether there is significant turnover in those served?

Answer: This would depend on the community. The EFS program has tried to ensure that our help went to those with an emergency rather than chronic need. For example our supplemental rent/mortgage assistance can only be used once during a program year.

Question: There is a proposal to transfer this program to H.U.D.

(a) Does FEMA see any difficulties with such a move?

(b) Do you know how the National Board or the local charitable agencies feel about the proposed move?

Answer: (a) FEMA supports the Administration's position. FEMA would seek to ensure that any move would be accomplished as smoothly as possible with as little disruption to the program as possible.

(b) National Board member agencies have voiced their support of the program remaining at FEMA. Without criticizing H.U.D., the National Board believes the program is working well and does not perceive what advantage would be gained from the move. Local agencies have voiced several concerns which include: the program being combined with other H.U.D. McKinney Act programs in an effort to reduce funding, the gradual elimination of the food element of the program, the removal of religiously-affiliated agencies from the program and a much greater degree of government involvement in the program rather than the current partnership.

Question: Who currently serves on the National Board? How do membership changes occur?

Answer: The membership is determined by law. The members (listed in parentheses) are representatives from the following charitable groups: American Red Cross (Mr. Enso Bighinatti), Catholic Charities USA (Brother Joseph Berg), Council of Jewish Federations (Mr. Mark Talisman), National Council of Churches (Mrs. Mary Anderson Cooper), Salvation Army (Col. Ernest Miller) and United Way of America (Mr. William I. Fields). As per law (Public Law 100-77) the Board is chaired by the Federal Emergency Management Agency. Serving as the representative of FEMA Director Julius W. Becton, Jr. is Mr. Robert G. Chappell.

By law the individual members are appointed by the Director of FEMA. Changes are made in consultation with the Board member agencies. Any changes in organizational membership would have to be accomplished by legislation.

CIVIL DEFENSE

Question: FEMA continues to require states to move into the computer age by putting required reports and program data on computers, yet the state has to provide the 50-50 match to get the hardware. The amount of computer equipment being required by state has put a bind on state budgets.

If FEMA requires that a report be on software, is there any way it can fund the hardware or allow the state to continue to report as before?

Answer: Under the Comprehensive Cooperative Agreements that FEMA has with States, we do require that the activities be tracked and reported to FEMA using a computerized system. This system was first required this fiscal year, but we do intend to continue the requirement in the future.

During the development phase of this system, we met with a number of State, local and our own Regional officials to determine what would be the best configuration to maximize usability in the States. The system was then designed with that objective in mind. We know of no State that had to purchase a computer just so they could meet FEMA's reporting requirements. Other than the normal computer operating system, the program requires no additional software in order for it to run.

We believe that computers are an important tool in Civil Defense planning and capability development. We also believe that States have important uses for them in many areas besides Civil Defense funded programs. In this type of situation the 50-50 match approach makes perfect sense. Computers purchased with matching funds are used for conduct of any necessary business during the day. We would estimate that perhaps 10-20% of the computers use is towards meeting our required computerized submissions, it certainly does not approach 50% of the usage.

One other point is worth mentioning. Last year FEMA published a specific chapter that dealt with procurement of ADP equipment under the CCA. Prior to that, most programs either made no provisions for purchase of ADP equipment with their funding or prohibited it. Although there are still a few programs that do not permit purchase of ADP equipment, they are the exceptions to the general rule, and the vast majority of funding comes from programs that allow the 50-50 match. This mechanism not only allows the purchase of new computer hardware and software but will allow for the replacement or enhancement of systems as the need arises.

EMERGENCY PUBLIC INFORMATION PROGRAM

Question: There are no FEMA grants to States for publication of information materials to use for Public Information. Many items FEMA publishes are now either out of date or available to State and locals in limited numbers.

(a) What is the Public Information money buying that is a benefit to States and locals?

(b) Can States and locals get more and better publications?

Answer: The purpose of the increase in Emergency Public Information (EPI) funds requested in FY 1989 and for 1990 is to bring out-of-date materials up to date and remedy shortages, both in materials disseminated during normal peacetime and those held in reserve for dissemination in case of a national security crisis.

FEMA is replenishing stocks of most heavily used current materials such as the all-hazard citizen's handbook, In Time of Emergency (H-14); the attack

preparedness handbook, Protection in the Nuclear Age (H-20) and the all-hazard "Emergency Preparedness Checklist." We are also developing a new all-hazard handbook, combining and improving on H-14 and H-20. Other new materials being developed for States and local jurisdictions are a citizens' brochure, "Are You Prepared?", and a brochure for emergency managers, "Are You Ready for the Next Disaster?" During 1989 a Civil Defense Speakers Kit was developed, under the family protection and volunteer effort, that is being produced under EPI in larger numbers for use by State and local personnel to use in addressing groups on civil defense.

As new and updated materials become available, States will receive copies, they will be available through FEMA's Publications office, and the FEMA Publications Catalog will be periodically updated. The limit placed on numbers available for any given request for public information materials is not arbitrary; it is to assure that the request is reviewed to make sure large orders are for reasonable uses, since stocks are not unlimited. Unless an item is out of stock, State and local jurisdictions' requests for public information items are honored. FEMA is also making a major EPI effort to update standby emergency public information materials for use by newspapers, television and radio in a crisis period. These are a series of messages describing self-help survival steps citizens can take. Mass dissemination of these materials is only appropriate in a crisis and will be done at that time via the various media.

TRAINING FOR PUBLIC INFORMATION OFFICERS

Question: Training materials for Public Information Officers at State and local levels are, I understand, practically non-existent. If there is an emphasis on Public Information placed by FEMA on State and local, then why not provide training and training materials in the training circulars?

Answer: Training is provided through the Emergency Management Institute (EMI) for Public Information Officers. In the resident program, EMI recently offered a revised, and highly successful, Basic Public Information Officer course for State and local Public Information Officers. Letters have been received from course participants, some of whom have since dealt with disasters in their communities, attesting to the effectiveness of the

training. EMI is also offering a Joint Information Systems Conference for Public Information Officers as part of the resident curriculum.

The EMI field curriculum does not provide a course specific to Public Information Officer training. However, this topic is addressed in the Professional Development Series (PDS) offering "Effective Communications for Emergency Program Managers." In this course, each student develops and presents a prepared speech, as well as participates in an individual, video-taped media interview in a simulated disaster situation.

Building on the successful Basic Public Information Officer course, EMI plans to develop an Advanced Public Information Officer course to be delivered at the resident facility.

TRAINING FUNDS FOR STATES

Question: Why is so large a part of FEMA budget retained at Emergency Management Institute (EMI) and not sent to State level for State mandated training, or for an additional training center?

Answer: The Emergency Management Institute receives funds for training from two sources: Training and Education (Civil Defense) and Emergency Management Institute (Training and Fire Programs). The three basic elements within each of these funding sources are: Instructional Programs and Materials, Training Field Deployment Systems, and Resident Programs. The delineation of these elements may imply that only the second category supports State level training. The majority of the funds within this element are distributed to the States through the Comprehensive Cooperative Agreements (CCA), with the remainder providing for administration of outreach efforts such as the home study program and the field reporting/evaluation system. However, the level of support which EMI provides for field training goes beyond that element. For example, the other two elements within EMI's budget provide resources to support the development and deployment of field courses, printing and dissemination of field training materials, resident train-the-trainer course offerings which provide instructors to deliver the training activities in the field, participation by State and local representatives in Curriculum Advisory Committees for the development of new training initiatives, off-site offerings of the Integrated Emergency Management Course (IEMC) for

specific communities, and support for the Radiological Emergency Response Officers training program at the Nevada Test Site. In addition, EMI funds the salaries and Expenses for the Training and Education Program Manager and half-time clerical position in each of the ten FEMA Regions in support of the field training program. The costs associated with an additional training center would far exceed the funds required to support this established training network. It is unlikely that the benefits would merit the additional costs.

ALTERNATE TRAINING FACILITY

Question: Why not revive the old idea of establishing an alternate EMI, more centrally located, one that students and staff can easily fly in to and out of?

Answer: It would not be cost-effective to establish an alternate EMI. The facilities at Emmitsburg are adequate to support the current training programs of both the Emergency Management Institute and the National Fire Academy and co-location provides both economy of operation in terms of site support, and programmatic benefits, in terms of mutually supportive curriculum benefits. In addition, the current EMI location within driving distance from Washington facilitates the involvement of FEMA Headquarters and Federal agency personnel in course development and delivery. Since many EMI courses address or include Federal program policies and procedures, such involvement is critical. The Emmitsburg facility is approximately one and one-half hours away from the airports in Washington and Baltimore and is also accessible via major interstate highways.

STATE TRAINING REQUIREMENTS

Question: All program areas at FEMA with training requirements put funds through EMI with an earmark on the funds that requires the State to conduct the course before any of the training funds can be accepted. There are so many mandated courses that there is no time nor funds remaining for States to work on their own State directed priorities. Even if there were time available, all training funds have to be put toward a FEMA-specified training activity.

(a) Is there any leeway for State priorities?

(b) Could there be a general set-aside of a

portion of EMI training funds for needs particular to a State?

Answer: (a) Funds to support field delivered training have remained constant--or decreased in FY 1988--over the past few years while training requirements of FEMA program offices have increased. This has resulted in somewhat less flexibility and Federal resources available for State initiated training activities. However, States still have leeway to request funds for training activities unique to their State. This may be done by each State during the preparation and submission of their annual training plan and request for Comprehensive Cooperative Agreement (CCA) funds. States which have unique training needs must submit a Plan of Instruction (PIO) to their Region for review and approval for such training activities. If approved, and if funds are available, the State will be authorized to conduct the requested training activity.

(b) EMI will consider this request in the development of the FY 1991 CCA guidance. Limited field program resources in the Training and Fire Programs (non-Civil Defense) budget are, however, a problem given the number of critical hazards which must be addressed (e.g., earthquake, hazardous materials, floods, hurricanes, etc.) with limited funds.

Question: While there is suppose to be a 50/50 match for the emergency management assistance program, my state has, in effect, been at 55 state/45 federal for the past several years.

(a). What is the basis for this - are available funds simply pro-rated or was there a policy decision to change the match?

(b). What will the match in effect be in FY 1990?

Answer: (a). Each fiscal year when Congress appropriates the Emergency Management Assistance (EMA) program funds, FEMA allocates those funds to the States based on a formula computation contained in the Code of Federal Regulations. EMA funds may not exceed one-half of the necessary and essential expenses for State and local emergency management personnel, travel, and administration. Due to the limited amount of Federal funding, however, quite a few State and local governments have contributed

more than the Federal share. In FY 1986, for example, we asked our regional offices to indicate, through consultation with States, if EMA formula amounts were sufficient. Thirty-seven States indicated that they had additional needs totalling in excess of $11 million.

Answer (b). For FY 1990, we are hoping for a small increase in EMA funding which will be proportionately shared by all eligible States on the basis of the formula. It is unlikely that there will be any substantial change from the basic FY 1989 share for any State. Therefore, in all probability, there may be a small but insubstantial improvement in the ratio of Federal funds to State and local match. States and their local jurisdictions with needs in excess of what is available (from Federal funds and non-Federal match) will have to continue to contribute more than a share equal to the Federal funding.

REP EXERCISE PARTICIPATION

Question: Nebraska has participated in the Radiological Emergency Preparedness or REP program since 1977. This includes participation in two exercises a year since 1979 in support of the two nuclear power stations in the State. During that time neither FEMA Region VII, the Regional Assistance Committee chaired by FEMA or FEMA National have participated in any exercises. Because FEMA has never played, other response agencies who do play regularly have practiced and refined their coordination of response without knowing what effect the introduction of FEMA will have, should there be an incident at one of the plants.

(a) Has FEMA practiced in any exercises - if so, please give places and dates.

(b) Are there any plans for additional practices?

Answer: (a). FEMA's primary emphasis in the Radiological Emergency Preparedness Program is to assist in improving the response capabilities of State and local government emergency planning and preparedness organizations in the event of an accident at a commercial nuclear power plant. To accomplish this, FEMA reviews and evaluates State and local radiological emergency response plans and exercises. These evaluations provide the basis for

reasonable assurance findings and determinations on the adequacy of offsite preparedness to protect public health and safety in the event of a commercial nuclear power plant accident. Federal capabilities to provide supplemental Federal assistance and resources to State and local governments, if needed, are implemented through the Federal Radiological Emergency Response Plan (FRERP). The FRERP was first tested in March 1984 during an exercise at the St. Lucie Nuclear Power Plant in Florida. The FRERP was tested again in June 1987 at the Zion Nuclear Power Plant in Illinois. This Plan has been tested in several other exercises involving different types of radiological emergencies, particularly the Departments of Defense and Energy exercises in which FEMA Regions have activated and mobilized their Emergency Response Teams (ERT). In addition, the FRERP was used in the preemergency phase for possible reentry of a Russian satellite, cosmos 1900, which did not, in fact, reenter the earth's atmosphere.

The FRERP is implemented through the ERT regionally. FEMA Region VII has exercised its ERT in conjunction with State Radiological Emergency Preparedness (REP) exercises at commercial nuclear power plants. Specifically, ERT procedures were exercised at the Callaway Nuclear Power Plant in Fulton, Missouri, on June 3, 1987; the Wolf Creek Generating Station in Coffey County, Kansas, on September 2, 1987; and the Cooper Nuclear Station in Brownville, Nebraska, on February 19, 1987.

In the case of the Cooper Nuclear Station exercise, the communications component of the Region VII ERT was activated to support a remedial exercise which was necessitated by the State of Nebraska's failure to provide sufficient alert and notification to adequately protect the citizens living within 10 miles of the plant in the event of an accident. The Region VII ERT communication component was utilized in the evaluation of the siren system enhancement that had been installed to remove a negative finding.

FEMA Region VII hopes to implement its ERT during future State commercial nuclear power plant radiological emergency preparedness exercises. Lack of ERT participation in REP exercises since 1987 resulted from constraints related to funds and staff resources available to both evaluate and participate in an exercise, simultaneously. Over the years, the Nebraska Civil Defense office has insisted that FEMA

staff be utilized at all major facilities to evaluate exercise participation. Contract personnel were not acceptable. At present, Region VII now uses between 15 and 20 staff from the Region to evaluate a full-participation exercise.

In 1987 and 1988, several significant problems surfaced at the Fort Calhoun and Cooper sites. Because of these problems, Region VII required Radiological Emergency Response Plan revisions from the Nebraska Civil Defense Agency. In part, the required plan revisions were related to procedures providing evacuation information to Nebraska residents living in proximity to both nuclear power plants.

Given the resources available, Region VII has concentrated its efforts on the evaluation of plans and procedures for, and the preparedness of, State and local government primary response organizations. However, Region VII hopes to continue its ERT participation in future commercial nuclear power plant exercises in Nebraska, as well as other States, to further enhance Federal capabilities to coordinate and implement Federal response and assistance.

EMERGENCY OPERATING CENTERS

Question: How many Emergency Operating Centers currently exist throughout the country?

Answer: It is estimated that between 3200 and 3400 local and county jurisdictions have facilities they refer to as Emergency Operating Centers(EOC), while another approximately 125 State-level facilities function as EOC's.

Question: (a) Is this considered sufficient?

(b) How many centers were funded in FY 88?

(c) In FY 89?

Answer: (a). No. Only a small number (less than 1000) of these facilities meet operational standards that FEMA considers adequate to meet requirements of a major disaster.

(b). Based on FEMA's emphasis on developing State-level survivable crisis management (SCM) capabilities in FY 1988, only three EOC projects

were funded. These three projects were funded as part of three State SCM prototype projects geared at designing the entire State span of control network required for managing major disasters (including nuclear war).

(c). It is anticipated that FEMA will fund approximately five State SCM projects in FY 1989. Since FEMA Regional offices are still working to refine the proposals being developed by the States, no allocations have been made at this time. However, we are more than confident that the allocations will be made in the 3rd and 4th quarters.

Question: Is it current FEMA policy to concentrate on facilities that are related to nuclear attack rather than to take an all-hazard approach which would include centers able to respond to natural disasters such as tornadoes, floods, etc.

Answer: It is current FEMA policy to place appropriate emphasis on nuclear primacy as spelled out in NSDD 259; however, all EOC funding is geared at capability building that meets the requirements of all hazards within each State.

WARNING AND COMMUNICATIONS SYSTEM

Question: I understand that there have been limited funds in the past several years for warning and communications systems (WCS).

(a) Is this now a lower priority for FEMA?

(b) Is existing WCS equipment deemed sufficient and up-to-date?

(c) What will your FY 1990 program include?

(d) How much will be available to States and localities for this in FY 1990?

Answer: (a). Definitely not. Emergency warning and communications capabilities at the State and local levels of government are critical to an effective National emergency preparedness and response capability. This capability is necessary in order to have a National Survivable Crisis Management system in place to respond to both National Security emergencies and peacetime emergencies and disasters.

Even with reduced funding there have been on-

going upgrades in the FEMA National Radio System (FNARS) with the acquisition and installation of new HF and VHF radio equipment and antennae at the FEMA Regions and the state emergency operating centers. The FEMA Switched Network (FSN) has completed the upgrade of all the Regional private branch exchanges (PABX) and the national teletype system was replaced by the Sidereal Micronet 10 message switches. Portable PABXs have been acquired for use in operations at remote locations. The classified facsimile system used between the FEMA HQs, regions and the Special Facility was replaced with faster and more reliable equipment.

The FY 1990 program will continue with the upgrade of the FNARS and the FSN, and providing funds are available, the procurement and installation of the National Warning System (NAWAS) telephone equipment.

(b). No. Both the warning and communications equipment in place in State and local jurisdictions is not state-of-the-art and inadequate in respect to quantities. FEMA has an aggressive program to work with State and local offices of emergency management to update their emergency warning and communications equipment by purchasing transportable, state-of-the-art equipment. This is in direct support of the Survivable Crisis Management concept.

(c). The FY 1990 program will allow continuation of the funding match for State and local offices of emergency management to purchase and install transportable emergency warning and communications equipment, with the emphasis on high frequency radio equipment and amateur radio operator equipment for emergency backup. - The FY 1990 program will also include a new course in emergency warning and communications systems assessment and design, to be piloted in June 1989 and formally delivered in FY 1990 and the outyears.

(d). The planned matching funds for States and localities in FY 1990 is $1,015,000.00.

MAINTENANCE AND SERVICES

Question: Maintenance and Services (M&S) has the goal of assisting State and local governments with maintenance, repair and replacement of emergency equipment, alerting and warning systems and emergency communications systems.

(a) How much will be available in FY 90?

(b) What is the FEMA estimate of total need?

(c) To what extent is equipment sinking into disrepair or becoming obsolete?

Answer: (a). FEMA has requested $1,093,000 for M&S in FY 90.

(b). In FY 1989, 38 States requested approximately $2.5 million.

This requirement was submitted on a short turnaround time, and probably represents less than one half the national requirement.

(c) Most of the EOC's presently in operation were developed more than a decade ago. Although FEMA does not have an inventory of the equipment and condition thereof, it is estimated that, based on normal life expectancy of the types of equipment in EOC's, there is a major state of disrepair across the country.

It is important to note that FEMA is implementing an important policy change in the M&S area. We will be requiring all jurisdictions that apply for M&S funds to provide FEMA an inventory of equipment, schedule of maintenance, and estimated maintenance costs. This policy is being implemented in FY 1989 and should result in returns equal to the number of projects funded. In FY 1990, the system will be upgraded to permit applicants to provide computer-ready data for FEMAs' computerized M&S data base.

Question: It is FEMA's position that all equipment not protected against electromagnetic pulse (EMP) will be inoperable.

(a) How much equipment is currently protected?

(b) Does FEMA have a goal or plan for protecting more?

(c) What funds will be committed to this effort in FY 90?

(d) How many surveyors and technical personnel do you have doing Facility Surveys to equip EOC's and EBS's?

Answer: (a). 160 emergency operating centers (EOC's) and 140 Radio stations in the Emergency

Broadcast System (EBS) have been EMP protected since 1978.

(b). Yes, 30 Radio Stations that comprise the Primary Entry Point (PEP) stations for the Emergency Broadcast System (EBS) will be completed with the funds requested for 1990. Approximately 2-2 1/2 years work is scheduled to be completed by May 31, 1990, that will protect an additional 18 EOC's and 18 other EBS stations.

(c) In FY 1990 we plan to commit $875,000 to this effort.

(d) 6 personnel - 4 personnel at the FEMA Regional Level, 1 private Contractor, and 1 FEMA Headquarters Staff person. By June 1, 1989 we will have additional personnel under contract.

NATIONAL WARNING SYSTEM

Question: The National Warning System is the telephone system which will notify all local warning points of impending nuclear attack on the national level.

(a) Is this up-to-date, state of the art equipment?

(b) In FY 89 how much is available for this program and how much goes to the states and localities? For FY 90?

Answer: The telephone equipment, the external ringer, the push-to-talk handset, long handset cord and the telephone rotary 4-wire, are of the late 1950 and early 1960 vintage. The equipment is workable and reliable, but definitely not the 1980s state of the art equipment. This equipment is used daily in the passing of information between localities in handling problems and/or assistance that affects the immediate population.

The FY 89 budget is $5,973,000. None of the money is given directly to the states or localities. The system consists of 63 circuits which are connected to approximately 2,126 terminals located throughout the Continental United States, Alaska, Hawaii and Puerto Rico. FEMA uses these funds for direct payment for leased telephone circuits, maintenance of circuits and equipment and the telephone equipment at each of the terminals, also referred to as drops.

For FY 90, the requested $7,552,000 will be used as was the FY 89 funds, with the exception that if funds are available, we plan to begin procurement and installation of modern telephone equipment.

FLOODPLAIN MAPPING

Question: What is the status of mapping? Have most floodplains been identified and mapped?

Answer: The initial studies phase of the National Flood Insurance Program (NFIP) is nearing completion and the mapping program is transitioning to a maintenance level program to ensure the accuracy and currency of published flood risk data for more than 18,600 communities nationwide.

As of the start of FY 1989, some 18,642 communities nationwide have been formally identified as floodprone through the publication of a flood map by FEMA. At the same time, some 17,797 communities were participating in the NFIP. All but 1,281 of them had been provided full program status. Actions have been initiated to provide full program status to all participating communities, but because of the long lead times required to study, then prepare and print, and distribute flood risk maps, these actions cannot be completed before September 30, 1991.

The initial studies phase was undertaken with a Federal investment of nearly $1 billion. When it concludes FEMA expects to have prepared flood insurance rate maps with detailed flooding information for 10,793 communities, flood insurance rate maps with approximate flooding information for an additional 5,229 communities, and provided notification of non-floodproneness (e.g., not subject to inundation from the 100-year flood, but subject to flooding from rarer events) to an additional 1,775 communities, all of which will be participating in the NFIP.

FEMA will also have prepared flood maps for an additional 2,696 communities that have elected not to participate in the NFIP. These maps will present detailed flood information for 328 communities and approximate flood information for the remaining 2,368 nonparticipating communities.

It is estimated that there may be as many as an additional 1,400 communities nationwide where flood risks have not yet been, nor are likely to be, identified. This is largely because these

communities are in very remote locations, are sparsely populated, do not have the infrastructure to adopt and enforce the floodplain management regulations required of a participating community, or the expense of identifying the flood risk does not justify the benefit likely to accrue by providing the information because new development is very low or nonexistent.

WRITE YOUR OWN POLICIES

Question: Some 72% of flood insurance policies are underwritten by private insurance companies. Is there any pattern - geographically, by policy type, or something - to which policies go to private companies and which remain in the NFIP?

Answer: The private-sector Write Your Own (WYO) companies currently write (sell) and service about 80 percent of all flood insurance business. However, the companies do not underwrite this coverage. Underwriting remains the responsibility of the Federal Insurance Administration.

The decision to write flood coverage with a Write Your Own company or directly with the NFIP is made by the consumer and the agent. The most significant pattern or trend is the continuing increase in the number and percentage of total coverage written through the companies.

Another pattern has been consistent and that is the average amount of insurance is higher for WYO policies than for direct coverage. In March 1989, for example, the average amount of insurance for direct policies was $74,404, while the figure for WYO coverage was $85,037.

The direct side has a slightly higher percentage of the non-residential coverage than the companies. In March 1989, 11.5 percent of the business written with the NFIP was non-residential, while 7.23 percent of the WYO business was in this category.

There is something of a geographic trend in that WYO tends to have a greater share of the market in the states with the highest number of policies, while a greater number of policies in states with low policy counts are with the NFIP. The companies have about 90 percent of the Florida business, where there are nearly 700,000 policies in force. Conversely, there are fewer than 1,300 policies in

all of Montana, and three-quarters of them are written with the NFIP directly.

There are anomalies in this trend. Companies that write primarily in a small region affect the percentages. Nearly 2,000 the of just over 5,000 policies in Maine were written by a company headquartered in the state. Inexplicably, the distribution of the more than 62,000 policies in New York is within 20 policies of being an exact 50-50 split between companies and direct.

UPTON-JONES CLAIMS

Question: How many claims and for what total amount have you had under the Section 544 (Upton-Jones provisions) of P.L. 100-242?

Answer: As of April 21, 1989, the Federal Insurance Administration had received 175 claims for review. Of these 175 claims, 51 have been approved for payment. This includes 40 demolition claims for a total of $1,507,154 and 11 relocation claims for a total of $221,676. The combined average cost is $33,899. The remaining cases have either been withdrawn, denied, or are under review.

NFIP IN NEBRASKA

Question: Is Nebraska fully mapped?

Answer: There are 241 communities and 30 counties participating in the NFIP in Nebraska. The flood insurance risks have been mapped in all of these communities and counties. Of these 271 communities and counties, 41 participate in the NFIP although they are not subject to inundation from the 100-year flood, and 31 have been identified as only having minimal flood hazards. Flood hazards have been identified in 58 Nebraska communities (of which 10 are counties) but these communities have elected not to participate in the NFIP.

Of Nebraska's 93 counties, 53 have not had their unincorporated areas mapped because of their low population and floodplain development potential. FEMA generally does not map the unincorporated areas of counties with populations of less than 10,000 unless the anticipated benefits to floodplain development would exceed the cost of doing so. Approximately 31 counties met the 10,000 criterion in Nebraska.

Question: How many flood insurance policies are

there in Nebraska? How many are held by private companies? How many by the NFIP? What losses has NFIP had in the state? Any pattern among the losses?

Answer: As of December 31, 1988, there were 7,553 flood insurance policies in force in the state of Nebraska. Of this amount, 4,512 policies were written by private insurance companies under the Write Your Own program and 3,041 were direct business. From 1978 through 1988, 1,849 claims were paid totalling $9,242,557. The majority of the losses occurred in Saunders County and Sarpy County.

DISASTER RELIEF

Question: How many Presidentially declared disasters were there in FY 1988 and FY 1989 to date and where were they?

Answer: There were 17 Presidentially declared major disasters in 1988.

1988 DISASTER ACTIVITY

LOCATION	DATE	TYPE
CALIFORNIA	10/07/87	EARTHQUAKE & AFTERSHOCKS
NO. MARIANAS	11/03/87	TYPHOON LYNN
NEW YORK	11/10/87	SEVERE WINTER STORM
TEXAS	11/20/87	SEVERE STORMS & TORNADOES
MICRONESIA	11/25/87	TYPHOON NINA
LOUISIANA	11/30/87	TORNADOES & FLOODING
PUERTO RICO	12/17/87	SEVERE STORMS & FLOODING
ARKANSAS	12/17/87	TORNADOES
ARKANSAS	12/31/87	SEVERE STORMS & FLOODING
HAWAII	01/08/88	SEVERE STORMS, MUDSLIDES & FLOODING
MARSHALL ISLANDS	01/16/88	TROPICAL STORM ROY

GUAM	01/20/88	TYPHOON ROY
NO. MARIANAS	01/20/88	TYPHOON ROY
CALIFORNIA	02/05/88	SEVERE STORMS, HIGH TIDES, & FLOODING
ALASKA	03/11/88	FIRE
IOWA	07/28/88	RAIN, WIND, & TORNADOES
CALIFORNIA	09/29/88	WILDFIRES

As of May 5, 1989, there were 8 Presidentially declared major disasters in 1989.

1989 DISASTER ACTIVITY

STATE	DATE DECLARED	TYPE
TEXAS	10/05/88	HURRICANE GILBERT
ARKANSAS	11/25/88	SEVERE STORMS & TORNADOES
NORTH CAROLINA	12/02/88	SEVERE STORMS & TORNADOES
ILLINOIS	01/13/89	SEVERE STORMS & TORNADOES
UTAH	01/31/89	DIKE FAILURE, FLASH FLOODING
KENTUCKY	02/24/89	SEVERE STORMS & FLOODING
WASHINGTON	04/14/89	HEAVY RAINS, FLOODING & MUDSLIDES
TEXAS	04/23/89	SEVERE STORMS & FLOODING

Question: What were the principal types of relief provided in FY 88, i.e., how much went to individuals for temporary housing, how much went for debris removal and clean-up, etc?

Answer:

Conducted 27 Preliminary Damage Assessments	$300,000
Managed 16 Disaster Field Office operations, including the supervision of Disaster Assistance Employees equivalent to approximately 180 FTE, and funded all administrative support requirements associated with delivery of assistance	$32,116,000
Provided Temporary Housing Assistance to 30,900 eligible applicants	$24,200,000
Provided Individual and Family Grants for 47,000 eligible applicants	$50,640,000
Funded Disaster Unemployment Assistance to 800 eligible applicants	$602,000
Funded 2 Crisis Counseling Programs (Arkansas and California)	$604,936
Provided funding for costs associated with disasters declared in prior years	$4,700,000
Provided Public Assistance for debris removal and repair or replacement of damaged public facilities and private non-profit facilities in disasters	$68,200,000
Approved funding for 12 Fire Suppression Grants in 5 States	$5,700,000
Provided Disaster Preparedness Improvement Grants to 54 States	$1,350,000

Question: You anticipate recovery operations in 28 Presidentially declared disasters in FY 1990. How did you derive the figure of 28? Is it based on historical trends or some other methodology?

Answer: It is based on historical averages. Since 1974, the number of requests for disaster assistance has averaged about 40; the average number of declared disasters has averaged approximately 28.

ENROLLMENT IN TRAINING PROGRAMS

Question: Have you experienced any decline in participation by State and local personnel as a result of the diminished Federal funding?

Answer: We have been very fortunate that the Congress has restored EMI and NFA student stipends which support student participation for resident programs. However, an FY 1988 reduction in the Civil Defense Training Field Deployment Systems program element under the Training and Education program did cause a reduction in the number of students participating in State training initiatives. Funding has decreased in Fire Prevention and Arson Control, in that the amount available in 1989 is $1.6 million below the 1985 level. While the participation by State and local personnel has been relatively constant, level funding, coupled with the increased costs of operating, makes it very difficult to maintain a constant level of effort.

TRAINING PARTICIPATION BY NEBRASKA

Question: What participation have you had from the State of Nebraska in FY 87, FY 88, and FY 89 in the training programs?

Answer: The participation in the training programs from the State of Nebraska for 1987 and 1988 is as follows. The information for 1989 is incomplete at this time.

	1987	1988
National Fire Academy:		
Students Participating		
- Resident educational program	30	25
- Field educational program	139	69
- Train-the-Trainer program	2	3
Resources		
- Student travel stipend program	$ 8,972	$ 6,330

Emergency Management Institute:

Students Participating

- Resident educational program	24	89
- Field educational program	601	813
- Train-the-Trainer program	1	10

Resources

- Student travel stipend program	$ 9,744	$38,313
- Emergency Management Assistance Program	$64,691	$63,920

An Integrated Emergency Management Course was conducted for the City of Scottsbluff on March 21 through 24, 1988.

EARTHQUAKE HAZARDS

Question: What areas have you identified as potential earthquake hazard areas; what criteria were used for identification; and how secure do you feel about your identification data?

Answer: FEMA believes that all 50 States are at some risk from earthquakes, if not directly, then indirectly. We presume "potential earthquake hazard areas" in this question to mean "high-risk, high-population areas". Using scientific information on earthquake potential generated by the USGS and others, FEMA has identified 13 high-risk, high-population areas: Southern California (Los Angeles and San Diego), Northern California, Oahu/Honolulu, Anchorage/Alaska, Puget Sound/Washington, Wasatch Front/Utah, the New Madrid Seismic Zone of the Central United States, Charleston/South Carolina, Buffalo-Rochester/New York, Boston/Massachusetts, San Juan/Puerto Rico, and the Virgin Islands. These 13 areas affect 17 States. Each of these States are eligible to receive financial assistance from FEMA.

FEMA's criteria of eligibility for financial assistance, and hence the designation as high-risk, high-population, are defined in 44 CFR Part 361. Other States can establish eligibility using these criteria. Since, as stated above, we believe that all 50 States are at some risk from earthquakes, we offer technical assistance on earthquake hazard reduction measures nationwide.

Question: To what extent have dams throughout the country been surveyed for safety?

- What are your findings?

- Which dams in Nebraska have been surveyed?

- Have any safety questions been raised about dams in Nebraska?

- If questions are raised about dams, what happens next?

Answer: The U.S. Army Corps of Engineers published its final report to Congress on the National Program of Inspection of Non-Federal Dams in May of 1982. The report contained a revised inventory of 68,153 dams. Nearly nine thousand dams (8,818) were inspected under this program. Of this number, nearly three thousand (2,925) were evaluated as unsafe due to various deficiencies, primarily for inadequate spillway.

FEMA published a report, State Non-Federal Dam Safety Programs - 1985, in December of 1985. This report revealed that States were regulating 80,536 dams, 9,247 of which were classified as "high hazard" and 1,948 remained classified "unsafe," since the end of the Corps inspection program. The report also revealed that only 21 States had adequate programs, 4 States had marginal programs, and the remaining 25 had inadequate programs because of deficient budgets, dam safety laws, or insufficient personnel. However, 32 States had made progress in strengthening their dam safety programs since the 1982 Corps report. FEMA will be reassessing and updating the status of State dam safety programs again this year.

All dams in the State of Nebraska are inspected in a period of five years. This includes Federally owned and regulated dams such as those owned by the Corps of Engineers, Bureau of Reclamation, and regulated by the Federal Energy Regulatory Commission (FERC). High hazard dams are inspected annually. The remainder are inspected on a schedule ranging from 1, 2, 3, to 5 years depending on size and condition.

The 1982 Corps report listed 7 unsafe dams in Nebraska; none were emergency unsafe. Five of those unsafe dams have been corrected. Corrective actions, repair and rehabilitation, will commence on

the remaining 2 small dams this summer. Ten years ago the stability of the foundation of Kingsley Dam in Kieth County was questioned. This is a FERC regulated dam and FERC ordered an engineering evaluation which provided for the repair (enhanced stabilization) of the dam's foundation, and that effort is now in progress.

When questions are raised about a dam, corrective actions are initiated to address the question. These actions include: (1) an assessment of the urgency of the situation regarding public safety, (2) completing a thorough engineering evaluation, (3) formulating the plan for repair and rehabilitation, and (4) drawing up the budget. The important part is that immediate actions are taken to answer the question.

Nebraska has an excellent dam safety program and is one of the leaders in addressing dam safety issues. It was the first State to submit its inventory update for the National dam inventory after the pilot program was complete.

QUESTIONS SUBMITTED BY SENATOR ADAMS

FUNDING FOR WASHINGTON STATE

Question: In 1974, Congress broadened the Federal Emergency Management Agency's (FEMA) statutory mandate to include dual use planning for natural and man-made disasters. I interpret this to mean that your policy is to provide funds to the states for all-hazard emergency planning. Nonetheless, FEMA has refused to allocate my state the necessary funds in 1989 to develop such plans (i.e. $1.4 million). FEMA alleges that we are required to develop plans for our civilian population in case of a nuclear attack.

Since loss of federal funds affects all hazard planning, FEMA, by inference, is arguing that nuclear attack planning takes precedence over all hazard planning. This means that planning for chemical accidents or terrorist attacks are not given parity in civil defense planning. First, does not this argument contradict the broadened mandate that Congress established in 1974? Second, is it not true that we are the only state that FEMA has refused to fund in 1989, though other states have also not met the alleged criteria of developing civil defense plans for a nuclear attack? Third, does FEMA intend to re-evaluate their 1989 funding decision as it affects Washington state, based on criteria giving parity to <u>all</u> hazard planning? If not, why?

Answer: A chemical accident or a terrorist attack does not receive parity with a nuclear attack for civil defense planning funds. Since civil defense funds are fundamentally appropriated for the purpose of preparedness against nuclear attack, use of those funds for a chemical accident or a terrorist attack should contribute to and not detract from nuclear attack preparedness. A nuclear attack is a catastrophe so much larger in scale than even a major chemical accident that parity in the use of civil defense funds cannot fail to detract from nuclear attack preparedness. Furthermore, the Senate Armed Services Committee in Report, National Defense Authorization Act for Fiscal Year 1989, S.2355, stated,

> The Committee will continue to look unfavorably upon the use of funds in the defense function (050) for civil defense activities that do not have attack preparedness as the principal rationale.

Washington State is not the only non-compliant State FEMA has refused to fund. To date, over 1 million dollars in funding has been withheld from the State of New York pending the development of several local emergency operations plans which adequately address nuclear attack preparedness.

The Federal Civil Defense Act of 1950 and not a policy decision by FEMA is driving the withholding of FY 1989 funding to Washington State.

Section 502 of the Federal Civil Defense Act of 1950, as amended, contains the following provisions bearing on the funding of Washington State:

> Sec. 502.(a) In order to carry out the sense of Congress expressed in Section 501, the President shall, to the extent practicable, develop and implement an improved civil defense program which includes--
> (1) A program structure for the resources to be used for attack-related civil defense;
>
> Sec. 502.(b) ...the President shall give consideration to including in such program structure the following elements:
> (1) Nuclear civil protection planning for more rapid population relocation during times of international crisis.

In direct contrast to this is the July 21, 1988 letter from the Governor of Washington, Booth Gardner, in which he both requested funding and stated that he could not accept the above purpose for the funding. He stated,

> As you know, Washington State law prohibits planning for nuclear attack evacuation planning. Therefore, I cannot propose a plan which would be in direct conflict with State law. [This is pursuant to the Revised Code of Washington Section 38.52.070.]

Governor Gardner went on in his letter to request "dual use" funding for a single use, however. He stated,

> I believe that the state of Washington ought to prepare for natural and technological hazards... In this way the state and local infrastructure on which the federal government must rely in a national emergency will be ready to address the crisis at hand.

In contrast, Section 207 of the Civil Defense Act states,

> Funds made available to the State under this Act may be used by the States for the purposes of preparing for, and providing emergency assistance in response to, natural disasters to the extent that the use of such funds for such purposes is consistent with, contributes to, and does not detract from attack-related civil defense preparedness.

HAZARDOUS MATERIAL TRAINING

Question: FEMA was authorized $5,000,000 to receive funding for training those who have to respond to hazardous materials incidents in FY 1990, yet that authority was not reflected in your budget. Furthermore, it is my understanding that it is not reflected in the Environmental Protection Agency's 1990 budget. Why did not FEMA provide for these funds in their budget? If these monies are provided in neither the FEMA or EPA budget, how are these critical local training programs being funded?

Answer: Funding to continue the hazardous materials training was included in FEMA's 1990 budget submission to the Office of Management and Budget. Due to funding restrictions and the need to reduce the Federal deficit, the funds were not included in FEMA's budget submission to the Congress. Funding of this program beyond 1989 becomes the responsibility of State and local governments.

SUBCOMMITTEE RECESS

Senator MIKULSKI. I'm going to say that the committee is going to stand in recess until tomorrow, May 2, at 10 a.m. when we're going to take testimony from NASA. The hearing will take place in this room, in SD–138.

And though the formal aspect of our hearing has been closed, General Becton, you took on one tough job 3 years ago, and you and I have been around the track on a couple of things, but I think we'd like to just thank you most sincerely for the hard and honest effort that you put into the agency. We happen to think that your agency has one of the most important missions that this country has.

We would welcome continued communication with you. We wish you the very best in your new endeavor. We want to thank you for trying to be a good soldier. That's all we could ask of you, as well as those 140 FTE's at Emmitsburg. So thank you, and Godspeed.

[Whereupon, at 3:06 p.m., Monday, May 1, the subcommittee was recessed to reconvene at the call of the Chair.]

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